



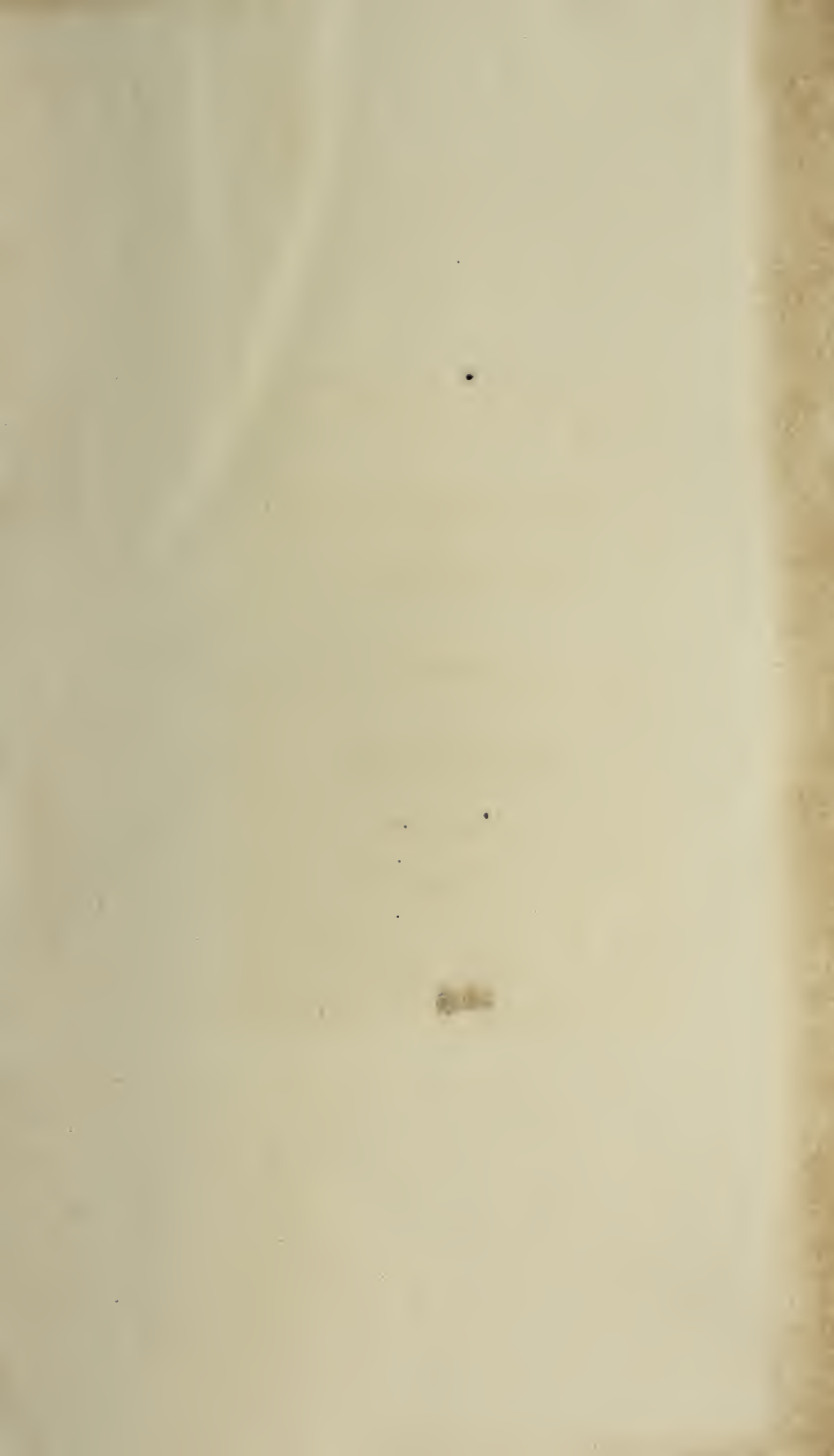
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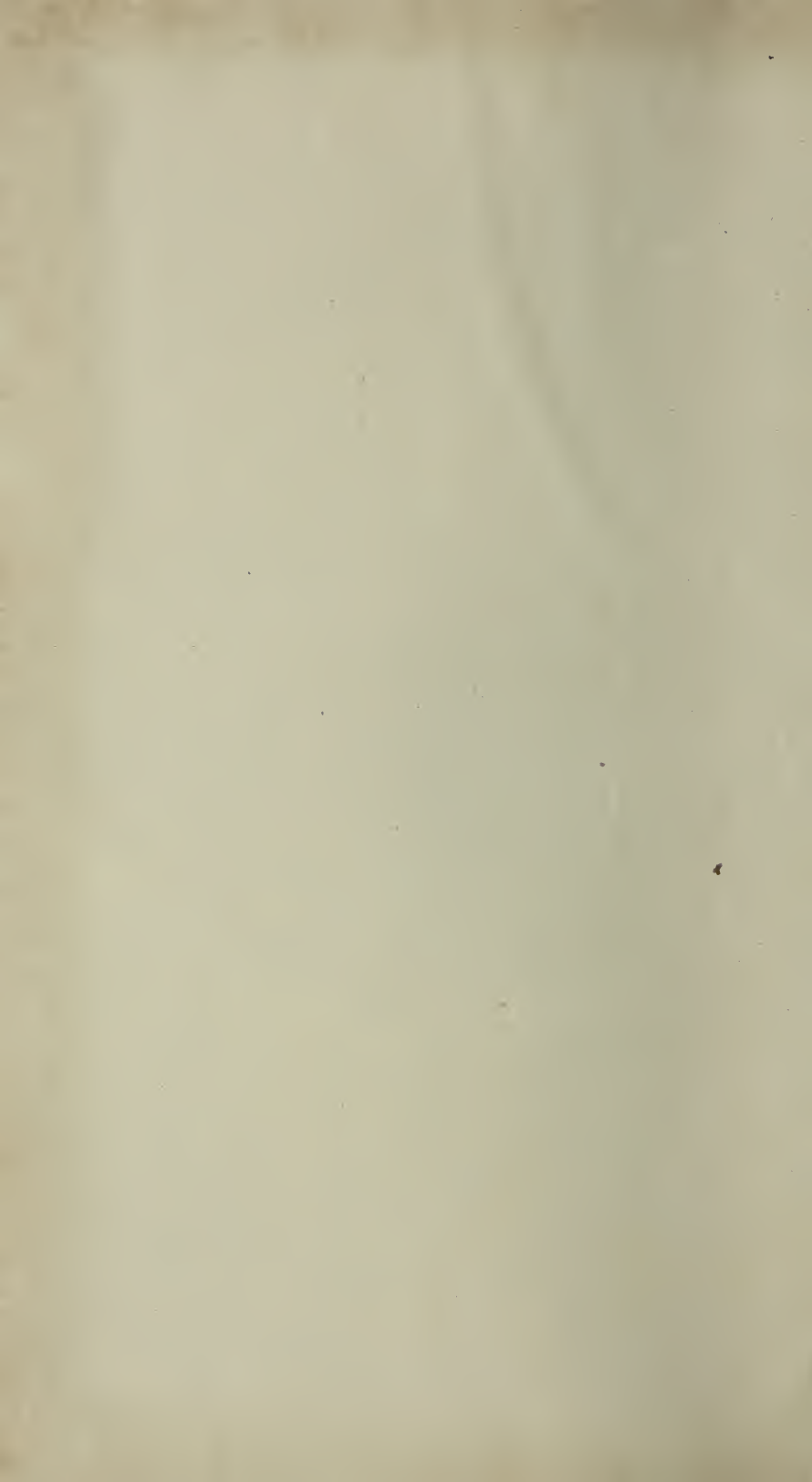
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DOCUMENTS  
OF THE  
ASSEMBLY  
OF THE  
STATE OF NEW YORK.

ONE HUNDRED AND TWENTY-FOURTH SESSION.

1901.

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REPORT  
OF THE  
SPECIAL COMMITTEE  
OF THE  
ASSEMBLY

Appointed to Investigate the Public Offices  
and Departments of the City of New  
York and of the Counties  
Therein Included.

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TRANSMITTED TO THE LEGISLATURE JANUARY 15, 1900.

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VOL. I.

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# STATE OF NEW YORK.

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No. 26.

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## IN ASSEMBLY,

JANUARY 15, 1900.

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### FINAL REPORT

OF THE

SPECIAL COMMITTEE OF THE ASSEMBLY APPOINTED  
TO INVESTIGATE THE PUBLIC OFFICES AND DE-  
PARTMENTS OF THE CITY OF NEW YORK AND OF  
THE COUNTIES THEREIN INCLUDED.

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*To the Honorable the Assembly of the State of New York:*

The Special Committee of the Assembly of 1899 was appointed by the Speaker thereof under and pursuant to a resolution adopted March 29, 1899, which is as follows:

“Whereas, It is currently reported and generally believed that, in the city of New York, funds are being raised by levy upon members of the police force, saloon and resort keepers, and by other contributions, for use in corruptly influencing legislation;

that there is a lax enforcement of the laws in said city, and in the counties included in said city; that corrupt and tyrannical methods have been resorted to in the enforcement of the same, and that the public funds of said city are being wasted in extravagant increases of official salaries and in other ways; and

“Whereas, It is deemed desirable for the public good that there should be a legislative investigation into all and singular the facts upon which said reports and charges are made, to the end that any action of the Legislature in reference thereto may be the more intelligently taken; therefore,

“Resolved, that the Speaker of the Assembly be and he hereby is directed to appoint seven members of the Assembly, who shall be a special committee of this body, with full power and authority to investigate all and singular the said reports and charges and all matters and things in any way pertaining thereto, and with full power to prosecute its inquiry in any and every direction in its judgment necessary and proper to enable it to obtain and report the facts in reference to said charges; and further

“Resolved, That said committee be and it hereby is authorized to employ one or more stenographers and one or more counsel, and such other assistance as it may deem necessary for the proper conduct of the investigation herein directed; and that it shall have the power to compel the production before it of any books and records, letters or documentary evidence of any character, which, in the judgment of the committee, pertains to any matter or thing under investigation, and wherever found; and also to compel the attendance of any witness; such production of documents or attendance of witness to be required by subpoena, signed by the chairman of the committee or acting chairman, or one of the counsel to the committee. Any member of said committee may administer the oath of any witness produced before it. Said committee may hold its meetings in both the city of New York and in the city of Albany. Any member or members of the committee, and its counsel, clerk or clerks, shall have access at

all times during the life of the committee to all books, records, papers and other documents on file in the office of the various departments of said city and counties, and the various subdivisions thereof throughout said city and counties; said committee shall exercise and enjoy all the powers, privileges and authority of a legislative committee, with full power to enforce its directions and mandates; and further

“Resolved, That for any testimony given before said committee, it is the judgment of this body that no witness shall be prosecuted, indicted, held liable or proceeded against in any other action or proceeding for any testimony given by him before said committee.

“The Sergeant-at-Arms of the Assembly shall attend said committee, and shall serve or cause to be served all subpoenas issued by the committee, and perform all duties as Sergeant-at-Arms, required by the committee.”

The committee appointed by Mr. Speaker was as follows: Robert Mazet, Chairman; Edward H. Fallows; James B. McEwan, Thomas M. Costello, Harris Wilson, Benjamin Hoffman and Anthony J. Boland.

The Special Committee having on the 26th day of April, 1899, duly made a preliminary report to the Assembly as a result thereof, a resolution was duly adopted by the said Assembly on the said 26th day of April, 1899, as follows:

“Whereas, By resolution adopted by the Assembly, on the 29th day of March, 1899, a committee was duly appointed by the Assembly to investigate, all and singular, reports and charges that in the said city of New York funds are being raised by levy upon members of the police force, saloon and resort keepers, and by other contributions for use in corruptly influencing legislation; that there is a lax enforcement of the laws in said city, and in the counties included in said city; that corrupt and tyrannical

methods have been resorted to in the enforcement of the same, and that the public funds of said city are being wasted in extravagant increases of official salaries, and in other ways, and to investigate all matters and things in any way pertaining to said reports and charges, with full power to prosecute its inquiry in any and every direction in its judgment proper and necessary to enable it to obtain and report the facts in reference to said charges;

“And, Whereas, The time within the said committee was to make its report to the Legislature, to the end that proper remedial legislation should be enacted, was not limited by the said resolution;

“And, Whereas, It appears to be impracticable for the said committee to complete its investigation and to make its report during the present session of the Legislature;

“And, Whereas, It appears that the scope of said committee’s work should be enlarged, it is

“Resolved, That said committee be, and it is hereby, directed to continue the investigation under the said resolution, with all the powers thereby conferred, after the adjournment of the present session of the Legislature.

“It is further resolved, That the said committee be and it hereby is authorized and empowered to extend its examination and investigation into the occupation, character, composition, expenses, operation, conduct and control of any and every department and public office of the city of New York, and of the counties therein included, and the influence affecting and controlling the officers therein, with full power to prosecute its inquiry in any and every direction necessary and proper to enable it to ascertain and report the facts.

“It is further resolved, That the said committee be and it hereby is directed to report to the Legislature with such measures as, in its judgment, may be necessary on the facts and conditions by it discovered and ascertained, not later than February 1, 1900, to the end that proper remedial legislation may be enacted.”

Acting under and by virtue of said resolution, the said committee proceeded to the city of New York and entered upon its duties as prescribed. It has taken upwards of 10,000 typewritten pages of testimony, herewith transmitted, and has examined into the conduct of very many of the public offices and departments of said city.

The committee has now in preparation a classified and indexed abridgment or summary of said testimony, in which abridgment those subjects of investigation that were purely administrative in their nature are brought together and separated from those for which a legislative remedy may be found. The preparation of this summary will take a considerable amount of time and labor. The committee believes that this abridgment will be of permanent value and recommend that when completed it be printed.

It is not intended in this report to enter upon any extended analysis of the testimony so taken. The final clause of the resolution of April 26th is as follows:

“Resolved, That the said committee be, and it hereby is, directed to report to the Legislature, with such measures as in its judgment may be necessary, on the facts and conditions by it discovered and ascertained not later than February 1, 1900, to the end that proper remedial legislation may be enacted.”

It is to be clearly borne in mind, therefore, that the ultimate purpose of this investigation, as directed specifically by the resolution, as well as by the general limitations of law affecting legislative inquiries, is the suggestion of appropriate remedial legislation for evils discovered. .

A great part of the testimony was naturally enough directed to the conduct and control of the various offices and departments.



In many of these grave evils were disclosed. For such as were administrative in their nature, the remedy must be sought at the ballot box and not at the hands of the Legislature. The one clear and distinct fact brought out by this investigation is that we have in this great city the most perfect instance of centralized party government yet known. We have had explained by the highest authority, the dictator himself, the theory and system of government, and by the highest officials the practice thereof. We see that government no longer responsible to the people, but to that dictator. We see the central power, not the man who sits in the mayor's chair, but the man who stands behind it. We see the same arbitrary power dictating appointments, directing officials, controlling boards, lecturing members of the Legislature and the Municipal Assembly. We see incompetence and arrogance in high place. We see an enormous and ever increasing crowd of office-holders with ever increasing salaries. We see the powers of government prostituted to protect criminals, to demoralize the police, to debauch the public conscience and to turn governmental functions into channels for private gain. The proof is conclusive, not that the public treasury has been directly robbed, but that great opportunities have been given by manipulation of public offices to enable favored individuals to work for their own personal benefit.

The enormous increase in the budget of the city of New York, the inefficiency and wastefulness in the public service, the demoralization of many of the departments are due absolutely to this abdication of power by the officers of the people to an organization, the ruler of which, an autocrat, has testified that he was working for his own pocket all the time.

We would be derelict in our duty to this Assembly and to the citizens of our great city did we not assert this upon the solemnity of our convictions based upon unimpeachable testimony. Having said this much we refrain from further particularizing because our duty and your power is confined to remedial legislation, and for these evils there is none such.

The remedy is certain and efficacious, but it is not within the power of your body to apply it. The people alone can remedy these evils. So long as the majority of voters of the Greater New York are satisfied with the present system, theory and practice of government, no laws that you can devise will better these conditions.

There is no legislative panacea for such administrative ills.

The first two years of the practical working of the greater charter disclosed, as was natural, certain defects in the law governing this great municipality. About many of the things complained of there is a serious difference of opinion among witnesses entitled to the highest respect, and certain of these things are of such fundamental importance to the whole frame of the government that this Committee, preferring not to take the matter up piecemeal, reports that in its judgment the Legislature should authorize the Governor to appoint a commission which may carefully revise the charter, in order that such changes as may be determined upon may be carefully considered and result in permanent benefit. Your Committee, therefore, has drafted a bill for the appointment of such a Charter Revision Commission, which it submits herewith and urges its prompt passage.

There are certain matters, however, which, upon the evidence taken before it, the Committee deems should be acted upon at

once, and therefore has prepared bills covering such points and recommends their passage, and upon certain matters we recommend action by said proposed Charter Revision Commission.

### THE MAYOR.

Under the scheme of the charter, it was intended that the government of the city of New York should be a responsible government vested in the Mayor. He was given a term of four years, and with such a term and with such powers the charter commission deemed it advisable to make him ineligible for re-election. He was given for the first six months of his term the absolute power of removal of all officials appointed by the Mayor, and absolute power of appointment without confirmation by the municipal assembly, or any other body. He was made a member of the great boards of the city; the board of estimate and apportionment, the board of public improvements and the sinking fund commission, so that he might keep in touch and have a controlling voice in all of the governmental functions of the city. As the charter puts it: "The Mayor shall be the chief executive officer of the city."

The present Mayor has not conceived his duties to be as contemplated by the charter commission. He testified that he has steadily maintained the policy of refusing to consult with his commissioners on proposed action upon their part. He has not attended the meetings of the great board of public improvements. He has asserted that his view of the distribution of governmental power was that after having appointed commissioners they were responsible for their several departments and that he would neither confer nor advise in advance, but would confine himself to acting upon their completed projects. So far as appointments were concerned, it is a fair inference from all the evidence, that he has practically abdicated his powers and exercises merely a



registering function of the determination of the leaders of the party which elected him, in which the dominating influence, and therefore the real ruler of the city, is a private individual holding no office, amenable to no law, bound by no oath, and yet exercising almost absolute control over most of the departments of the city government when he chooses to exercise it. For this latter evil, for it is an evil, fraught with many evil consequences to the good government of the city, there is no legislative remedy. If a Mayor so chooses to abdicate his powers, the responsibility is none the less his, but the only way to change the condition, if the majority of the people are dissatisfied with such a system and scheme of government, is at the polls.

We are strongly of the opinion that the Mayor's term is too long, and advise that it should be shortened to two years, but inasmuch as the term of the present Mayor cannot now be affected, and as the terms of many other officials were made by the charter coincident with his in order that there might be a harmonious, responsible government, we suggest no present legislation, but refer this matter to the proposed charter revision committee with the recommendation that the Mayor's term be so limited to two years; and that not only the Mayor's term, but that of the other city officials whose terms have been made coincident with his for the purpose above stated, should be also limited to two years. Upon the question of the commissioners we are of the opinion that the Mayor should be given the full power of removal and appointment as at present. There seems to be a difference of opinion in the community whether the power of removal which now exists during the first six months of the Mayor's term should not be extended throughout his whole term in order that over all of that period he might be actually responsible for the adminis-

tration of the city. Many of the charter commission believe that this complete power should be granted. We commend this subject, without now expressing an opinion, to the careful consideration of the proposed revision commission. If the term of the Mayor is to be shortened to two years, we urge that this eligibility for re-election be restored. In our judgment the possible evil of the misuse of power to obtain a re-election is not measurable with the incentive for good administration that such a possibility insures.

### BOROUGHES AND BOROUGH PRESIDENTS.

One of the most important matters which this committee deems should be referred for the careful consideration of the proposed Revision Commission, is that relating to boroughs. The attempt in the charter to make a consolidated city and yet at the same time reserve a certain power of local government to the different component parts of the city now designated by the term "Boroughs" was one of the problems before that commission and does not seem to have been worked out in actual practice to entire success. Between the two theories, first, of absolute concentration of power in the central authority, and second, entire independence in local self-government of the boroughs, there is a wide margin for difference of opinion. Under the present system we have presidents of each borough, elected by all the voters thereof, and requiring some considerable outlay of public moneys for salaries and for their offices, for whom, under the scheme of government, very little has been found to do. The problems under this head are so intricate as to alone justify the appointment of a Revision Commission. The complaint of the various localities as to the total cessation of public improvements and the almost utter impossibility of getting anything done, extending

even to the minute and necessary details, is such that some relief must be devised. Regarding this as peculiarly the province of a revision committee, we refrain from any suggestions further than this: That inasmuch as the terms of office of the borough presidents cannot now be curtailed, we do advise that their powers be increased in one regard. They are now members of the board of public improvements, but have no vote therein except upon matters exclusively relating to their several boroughs. Inasmuch as they are officers elected by the people, we regard it as of great importance that they should be given full voting power in said board, especially in view of the fact that in such a matter as the Ramapo Water Company's contract, elsewhere alluded to in this report, which certainly affects the whole city of New York and each borough therein, the ruling was made that borough presidents could not vote. We urge the immediate passage of an amendment to section 410, of the charter, by simply striking out the last section thereof, which restricts their voting capacity to matters exclusively relating to their own borough, and have prepared a bill to accomplish that purpose; and, in view of pending matters, urge its immediate passage.

#### THE POLICE DEPARTMENT.

The conduct of the police department of a great city is the key note of the whole administration thereof. The conduct of the present police department of the city of New York is unqualifiedly bad. Not only are the laws against pool rooms, gaming houses, policy shops, excise violations, dance halls and wicked resorts of all kinds not enforced, or enforced in such a way as to be ridiculously ineffective, but the general discipline is lax, grave offenses of personal dereliction in the way of drunkenness,

absence from post, inattention to duty, etc., go unpunished or are visited with such small fines as almost to be an encouragement and not a deterrent for wrong doing. But this lax enforcement of certain laws has inevitably resulted in laxness towards all criminal offenses. Robberies from the person, robberies from houses and stores, bunco games, deceits, frauds, thefts, have increased in an alarming degree, and the detection of these crimes and the recovery of property has steadily decreased during the last two years. It would be useless to recapitulate the enormous mass of evidence which the record shows upon all these points, because in the judgment of the committee this condition is not due to the law governing the police department but the administration thereof, for which the Mayor, the Commissioners and the Chief are responsible, and behind them the leader and the party which have demanded such administration. Under the charter great powers are vested in the Chief of Police, and in order to insure the proper performance of those powers he alone of all the officers in the department can be retired at any time by the unanimous vote of the board or by the vote of three members thereof, the Mayor concurring.

This power of retiring a chief without cause assigned has been exercised by the present administration. To do it the mayor, within the six months within which he had the power to remove Commissioners, removed two Police Commissioners and appointed one in their place. The three commissioners promptly retired the then chief, and the mayor, having approved their action, the present chief was appointed. Therefore, it is strictly true that for the present condition of the police department and its enforcement of the laws in the city, the Chief, the Commissioners and the Mayor are



directly responsible. Over and over again, by clearest kind of direct evidence, the open running of at least one hundred and twenty-five pool rooms in the city of New York during the time the committee was in session was proved. Under a proper administration of the district attorney's office and the Police Department, the great majority of these places could, in the judgment of the Committee, have been promptly closed and kept closed. One way to accomplish that purpose was indicated by the Mayor himself, where the testimony in talking about pool rooms, was as follows:

"Q. If you knew of the existence of such places, would you take any steps? A. I will order them closed.

"Q. And supposing they were not closed? A. I would come pretty near removing somebody.

"Q. 'Pretty near removing somebody,' what do you mean by that? A. I would try them."

No trials of the Police Commissioners or removal of the chief have been had as a result of the existence all over the city of openly conducted pool rooms and gaming establishments.

We here have fixed by the testimony of the chief executive of the city his view of his powers and responsibilities. Upon the question of the enforcement of these laws and the discipline of the force, so long as the control of the Police Department, like that of the other departments, is intrusted to local authorities, it makes no difference, in the opinion of your Committee, whether the Police Board is by law single headed or four headed,—partisan or bi-partisan. The responsibility is as much fixed now as it ever can be by law, and we have no police legislation to recommend. We believe that the great mass of rank and file of the department under proper leadership would execute all the laws with

courage and vigilance, but it is not in the nature of things that subordinates dependent upon their superiors for continuance and promotion in rank should conduct themselves in direct opposition to the clearly known views of those superiors. When, at the direct instance of the gambling and pool selling fraternity, officers have been "pounded," captains transferred, and a chief retired, it is hopeless to expect any other administration of such laws than that which the overwhelming evidence proves to exist.

### WATER SUPPLY.

The settled policy of this city, extending over many years and requiring the expenditure up to the present time of many millions of dollars, has been municipal ownership and control of its water supply.

The community was shocked and excited by the discovery that a scheme to put through a forty year contract calling for the possible expenditure of \$200,000,000 with a private water company had almost succeeded. A large mass of testimony touching the affairs of the Ramapo Water Company and its relations to the officials of the city was adduced before the committee.

In the opinion of this committee such a radical departure from the established policy of the city ought not to be made except for the gravest reasons, upon the maturest consideration and with entire publicity.

The contention of the commissioner of water supply is that under section 471 of the charter, he has, with the assent of the board of public improvements, entire authority to make such a contract. The charter commissioner who drafted the chapter on water supply, testified that his understanding and that of the commission was that the power to contract was limited by the final paragraph of said section.

Those provisions are in brief that:

“ It should not be lawful for the city of New York, or for any department thereof, to make any contract touching or concerning the public water supply, and especially the increase thereof, with any person or corporation whatsoever save in accordance with the provisions and requirements of this act, which said provisions and requirements are hereby declared to establish the exclusive rule for the making of such a contract.”

His view was that this latter paragraph incorporated in said section the provisions of sections 419 and 420 of the charter, which in brief provide that no contracts to be made or let for work to be done or supplies to be furnished involving a greater amount than \$1,000 should be made except after public advertisement and to the lowest responsible bidder, unless otherwise ordered by a vote of three-fourths of the members elected to the Municipal Assembly.

This view of the intent of the statute has, however, not as yet been sustained by judicial interpretation. Indeed the direct contrary has been held by the Appellate Division of the Second Department in the case of Gleason against Dalton, 28 Appellate Division, 555, where the court interpreted this section 471, and said (p. 566):

“ We, therefore, reach the conclusion, from a consideration of the charter as a whole, that the purpose which it seeks to accomplish does not embrace, within the section which requires competitive bidding, contracts having reference to the supply of water to the municipality. So far as circumstances, which involve the policy of the municipality in respect to whether it shall contract for water to be supplied by private companies, or shall adopt the policy of municipal ownership, are concerned, it cannot affect the question with which we are now dealing. Such

considerations are outside the powers and duties devolved upon the courts. What the water policy of the municipality shall be has not been committed to their judgment, discretion or consideration, but in the distribution of the powers of municipal government such determination has, by the present charter, been committed to the officers of the municipal government, and whatever may be the private judgment of the courts with respect to the policy which ought to be pursued by the municipality, it nevertheless finds no place for the exercise of any of the powers which have been confided to it, and the policy may not, therefore, be properly considered.

“If the Legislature desires to devolve such powers upon the court, it perhaps has the power so to do. If the Legislature desires to make the supply of water the subject of competition, it also has the power so to do, but until it shall have so legislated, the courts are powerless to command a different rule.

“We reach the conclusion that the Legislature has not yet so expressed itself, in consequence of which the commissioner of water supply and the board of public improvements have power to authorize and make a contract similar to the one now before us.”

In view of this interpretation of the court and the suggestion that the Legislature should make this matter clear, and as it is quite possible that the proper solution is not to provide for public letting to the lowest bidder but should be the assent of the various boards charged with similar responsibilities in other matters, after deliberation and publicity, we suggest the immediate passage of an act amending § 471 of the charter by incorporating therein the provisions of § 472 as to the power of condemnation of the source of water supply with the approval



of the board of public improvements, the board of estimate and apportionment and the authority of the municipal assembly, evidenced by a three-fourths vote of the members elected thereto, and a bill to such effect has been prepared and its early passage urged before further mischief can be done.

Connected with the question of water supply, the committee refers to section 1619 of the charter. This section is as follows: "Nothing in this act contained shall be deemed to repeal the provisions of chapter 942 of the Laws of 1896." Chapter 942 of the Laws of 1896 is entitled "An act relating to the supply of pure and wholesome water in certain counties of the State," and in brief provides that the board of supervisors of any county in this State which does not contain an incorporated city, and is within forty miles of a city of the first class, containing over eight hundred thousand and less than one million inhabitants, may, by taking certain prescribed steps, prevent any person, corporation or municipality from using the source of water supply in said county for the purpose of supplying water to any city or county other than the citizens of said county. The only purpose of this act, in fact avowed at the time of its passage, was to prevent the city of Brooklyn from going into Suffolk county for water. The best engineering talent agreed that there is an abundance of good water in Suffolk county that could be taken without detriment to the citizens of said county. The section of the charter preserved said law. We were not able to ascertain how section 1619 got into the charter. In view of the immediate necessities of the borough of Brooklyn and in view of the enormous supply of water in Suffolk county, far beyond any possible needs of the inhabitants thereof, the judgment of this

committee is that chapter 942 of the Laws of 1896 should be repealed forthwith, and a bill for that purpose has been prepared.

### BUILDING DEPARTMENT AND BUILDING CODE.

The laws governing the erection, alteration and repairs of buildings in the city of New York are of the utmost importance both to owners, builders and architects who are governed and controlled thereby, but even more so to the people who reside in said buildings. This is especially true of the laws governing the erection of tenement houses, in which it is authoritatively stated upwards of sixty per cent. of the inhabitants of the city reside. The health, the life and the safety of all the dwellers in the city depend first upon proper laws controlling light and air space, sanitary requirements, fire-proofing, etc., and second, upon an honest and efficient administration of the department charged with the supervision of the construction and maintenance of the buildings.

Not only is the subject of vast importance for the reasons indicated, but the proper determination of the innumerable questions arising requires technical expert knowledge of various kinds. So thoroughly was the latter proposition recognized that the Charter Commission burdened as it was with the enormous task of making a proper scheme of government for a city of three and one-half millions was unwilling to assume this additional burden, and having in view as was then said the granting of a large measure of home rule to the city of New York, provided that the then existing building laws should continue in existence, and conferred upon the Municipal Assembly the power to enact a building code.

Such a code has recently been enacted and gone into effect.

The committee desires first to call attention to the administration of the building department. Here again we find grave defects of administration; here again we find the dominant theory of the present government corrupt, pull and favoritism for private gain in evidence. Where discretion was lodged in the department we find it exercised for the benefit of favored individuals and against others not so favored. A large amount of testimony was produced before us, disclosing bad and dangerous work in progress in the city of New York, which could only mean improper inspection due either to inefficiency or corruption.

As a conspicuous and glaring instance of favoritism, we found where a particular kind of fire proofing had been excluded from use in the city of New York, that, upon the organization of a company, which included certain individuals and the employment of certain counsel, there was a prompt change of ruling in the department, that particular system of fire-proofing, which had heretofore been rejected was admitted, and even the specifications of certain public buildings: to wit, school houses, were so altered as to conform to the very words of the specifications and advertisements of said company. Many grievances were reported in confidence by architects and builders, who for the sake of their material interests, could not be induced to testify to the same publicly upon the witness stand, lest reprisals should be made against them, during the remaining years of the present administration.

We do not report these instances in detail, because, for such evils, we again point out, there is no legislative remedy. Some discretion must be lodged in a department having control of the building interests in so diversified a territory as the city of New York. If that discretion be abused or if officials are inefficient,

incompetent or even corrupt, the remedy is not to be found at Albany, but in the city of New York, either at the hands of the criminal authorities or the people at the polls.

### AS TO THE NEW BUILDING CODE.

This code was prepared by a special commission appointed by the Municipal Assembly and adopted by the body under the grant of power to make ordinances governing buildings.

It was rushed through both branches of the Assembly with unseemly haste, and without going into its technical details and defects, many of which were pointed out at great length by the witnesses who appeared before us, it is sufficient to say that it has perpetuated and increased two of the striking defects of the old system.

First: It appears to have continued the power of appeal from the ruling of the commissioner to a so-called "Board of Examiners" which is a self perpetuating body consisting of delegates appointed from various associations, together with the commissioner of buildings and the chief of the fire department. This provision is unqualifiedly bad, and if nothing else were done we should advise the repeal of the present provision for the appointment of a board of examiners. In the first place, they are not appointed by the city officials and no responsibility for their conduct and actions can therefore be fixed upon a responsible government of the city, because they are appointed by private organizations, and secondly, some of them continue their private professional work and advertise the same, thereby giving rise to a well grounded suspicion of special influence and power.

Second: The discretionary power vested in the building commissioner has been applied to so many sections and in such a way

that it practically means that there are no fixed and determined building laws of the city of New York, but that all buildings may be erected, altered or repaired at the discretion of the head of the building department.

No such vast powers involving so many interests of so many people should be vested in the absolute discretion of any official. For these reasons, we recommend that the preparation of a proper building code for the city of New York be referred to the proposed Revision Commission, or, if in the judgment of the Legislature the preparation of such a code will require so much of technical and expert knowledge that it would be advisable to commit the work to a special commission, that the authority to appoint such a commission should be conferred upon the Governor.

We do not advise any present legislation, for inasmuch as the power to pass this code has been conferred by the charter upon the local authorities, and has been exercised, and as there must be some stability in such laws which affect so many interests it is better that the existing code should be continued until a careful revision can be made rather than any piecemeal work should be undertaken by the Legislature.

#### THE MUNICIPAL ASSEMBLY.

In treating the complex question of the government of great cities the tendency for many years prior to the adoption of the greater charter has been to take away from the local legislative body more and more of its power and to restrict it mainly to the perfunctory adoption of a tax levy and to the granting of minor permits.

The history of the city of New York in years past compelled this gradual clipping of almost all of the power from its local



legislature. The charter commission in creating a frame of government for the new city, with high hopes for the success of its new departure, turned away from the lessons of all our civic history and created a municipal assembly with two chambers in the hope that the problem of the proper government of so great a city and the increased application of the principle of home rule would be met with a high degree of success in the character of the work of the municipal assembly. The weight of testimony before the committee satisfied it that no benefit had accrued to the city from the creation of the two chambers. As this is a matter which essentially concerns the frame of government, your committee refers it to the proposed Charter Revision Commission with the expression of its opinion that the municipal assembly should consist of but one body which, in order to retain certain ancient rights and privileges of the city of New York, should be the Board of Aldermen rather than the council.

#### TAX DEPARTMENT.

A vast volume of testimony was given as to the conduct of the tax department. This department increased the assessed valuation of the real estate of the boroughs of Manhattan and the Bronx for the year 1899 over that of 1898 to the enormous amount of three hundred and twenty-seven millions of dollars. The examination of very many of the officials of the department indicated ignorance and incompetence so gross as to be ridiculous if the material interests of the citizens had not been at the mercy of such officials. We do not believe that so unequal, unjust and unfair a valuation of the real property of the citizens of a great city was ever seen. Neighboring properties of similar character were assessed at absurdly different ratios of increase. It would

be useless to multiply instances. The evils existing and complained of are not the result of the law. Incompetent and partial officials are not to be dealt with by the Legislature. The subject of a general revision of the tax laws is now in the hands of a special committee of the Legislature and we refrain, in anticipation of their report, from making any specific recommendation, but we desire to emphasize that so far as the particular evils testified to before us in the city of New York are concerned, the fault lies not with the law, but with the officers of the law.

#### NUMBER AND SALARIES OF OFFICE-HOLDERS.

The charter contemplates entire publicity in regard to the personnel of the various offices in the city and their salaries.

Section 234 of the charter provides that the Board of Estimate and Apportionment shall file with the final estimate during the month of December in each year a schedule of the names of all persons not within a department employed under the city government, the designation of their offices, and employment, respectively, and the salaries and compensation fixed for each, which said schedule shall be published in the City Record.

Section 284 of the charter provides, that the name, residence and occupation of each applicant for appointment or re-appointment to any position in the police department, as well as the name, residence and occupation of each person appointed to any position, shall be published, and such publication shall, in every instance, be made on the Saturday next succeeding such application or appointment, in the City Record.

Section 829 of the charter provides that the Board of Docks shall at the time it presents its said annual report to the Mayor also file with the Civil Service Supervisory and Examining

Boards of the city of New York, a complete statement of the name and address and salary or compensation of all persons employed in any capacity by said Board of Docks which shall be published in the City Record and the corporation newspaper.

Section 1528 of the charter provides that there shall be published in the City Record within the month of January in each year, a list of all subordinates employed in any department (except laborers), with their salaries and residences by street numbers and all changes in such subordinates or salaries shall be so published within one week after they are made. It shall be the duty of all heads of departments to furnish to the person appointed to supervise the publication of the City Record, everything required to be inserted therein. The said person shall have the power to make requisitions in writing upon the heads of departments to furnish the information necessary to make up such list according to rules prescribed by him and approved by the board of City Record; and such information must be supplied by the department within ten days after such requisition. He shall have power to require such information in the same manner, every three months, and all other information in the control of said heads of departments, necessary to perform his duties under this section. He shall include in this list the number of laborers, designating the department in which they are employed, and, if practicable, the number employed in the prosecution of specific works, and the amounts paid to them.

In spite of these distinct provisions of law, the committee found it impossible to ascertain the full lists of officials and employees of the city government, the gross amount paid for salaries and wages or the increase in salaries. The estimate of the



employees of the city varies between thirty-eight and sixty thousand individuals. The comptroller testified that it would cost \$50,000, to tell us what has been the increase in the number of employees and in the annual aggregate of wages and salaries since December 31, 1897. The direct provision quoted from section 1528 that all changes in such subordinates or salaries shall be so published within one week after they are made, has been evaded in intention by the simple notification that such and such a person's salary has been fixed at such an amount without any statement whether it has been increased or decreased or an entirely new appointment.

It is an astonishing proposition that in so great a business corporation as the city of New York there should be no way of discovering the numbers or the names of employees or the aggregate of the salaries and wages paid. The remedy for the evil of unnecessary officials and exaggerated salaries does not lie with the Legislature. The salaries of the principal officials of the city are fixed by the charter and we do not suggest that there should be any change made in such salaries. The salaries of subordinates are fixed by heads of the various departments within certain limits fixed by the board of estimate and apportionment. We believe this system to be correct, that is to say, that the local authorities should be given power which carries with it the responsibility of properly administering the local affairs in these directions. One remedy for many evils of administration is publicity. What public officials do should be done in public and a record made, easily inspected by citizens interested in the problems of good government. It seems monstrous that such a condition of affairs should have obtained that the chief

financial officer of the city should be compelled to say it would cost \$50,000 to procure the roster of the public servants and the salaries and wages paid to them.

It would seem an easy thing to require each bureau, each department and each officer outside of a department to keep an absolutely correct roster of its various officers and employees and laborers, which should show the name, the residence, date of appointment, the salary or wages, and changes therein from time to time as they occur and that at appropriate times detailed statements from such rosters be made to and published by the supervisor of the City Record. It was the expressed hope of the charter commission that consolidation would mean economy of administration. Such result has not followed.

Alderman Sherman testified that the annual expenses of the entire government of the various municipalities now composing the city, prior to consolidation, amounted to about sixty-eight millions of dollars. By comparing the budget since consolidation there has been an increase of about twenty-two millions of dollars in the annual expense of the city. This increase is not caused by public improvements, for they are payable by bonds. Such an increase in the budget in two years is startling. From the enormous and ever increasing number of city officials it would seem as if a consistent effort were being made to find out how two or more men could be made to do the work of one.

The foregoing considerations lead again to the conclusion that most of the trouble lies in the administration and not in legislation but the question of unnecessary duplication of work, the question whether it is not possible to consolidate certain of the departments, to reduce the number of deputies and employees,

should be taken carefully into consideration by the proposed revision commission.

We have prepared a bill amending the charter so as to insure the prompt publication of the details as to officials and employees of the city and urge its passage.

#### CITY RECORD—DUPLICATION OF WORK AND EXPENSE IN PUBLICATION OF LIST OF VOTERS.

By subdivision 3 of section 30 of the Election Law, as amended by chapter 649 of the Laws of 1899, it is provided that in cities of the first and second classes that the board of inspectors of each election district shall immediately after the close of the last day of registration make and complete one list of all persons enrolled in their respective districts in the numerical order of the street numbers thereof, which list shall be signed and certified by the board of inspectors.

The police board of the city of New York shall as soon as possible after the delivery of such lists and not less than six days prior to the day of election print in pamphlet form for each assembly district or ward not less than fifty times as many copies of said list as there are election districts in such assembly district or ward, so that each assembly district or ward pamphlet shall contain the lists of the several election districts in such assembly district or ward. Said section further provides for delivery to party officials of a specified number of said pamphlets, to the police captains and for sale of copies thereof to the public at a specified price.

Section 1527 of the charter provides that the supervisor of the City Record shall publish this same list of voters, divided by election and assembly districts, in precisely the same way.

The charter having been passed prior to this provision of the Election Law we have, therefore, two provisions of law requiring the same thing to be done by two different public officials. This is unnecessary duplication of work and entails a waste of the public moneys. There is absolutely no reason whatever except the benefiting of the printer why this should continue.

We recommend the repeal of section 1527 of the charter and have prepared a bill for that purpose and urge its passage.

### DOCK DEPARTMENT.

For many years it has been required that public contracts in the city of New York for work or supplies exceeding \$1,000 in amount should be let after public advertisement at public bidding to the lowest responsible bidder, unless otherwise ordered under special and peculiar circumstances by vote of three-fourths of all the members elected to the municipal assembly.

To this general policy there was one notable exception.

The execution of the so-called new plan adopted in 1873 or thereabouts for the improvement of the water front of the city of New York by the dock department, required a large amount of peculiarly difficult underwater work, and in view of the necessities of the situation, a peculiar provision was put into the statutes governing the dock department, which has been re-enacted in section 821 of the charter and is as follows:

“The work of said construction under such plan or plans shall, unless ordered to be otherwise performed by the affirmative vote of all the commissioners of docks, be performed as follows.”

Then follow minute requirements as to public advertisement and letting in harmony with the provisions governing the other departments of the city of New York. But these provisions for



such public advertisement and letting, of course, are governed by the phrase, "unless ordered to be otherwise performed by the affirmative vote of all the commissioners of docks. The effect of which was that if the commissioners of docks unanimously determined to give out the work without public competition they could do so.

In 1896 the then board of docks having determined to build otherwise than by contract, that is, by the force of the department by day's work, a certain section of the bulkhead or river wall of the city, requested the opinion of the corporation counsel as to whether under said section the materials, tools and implements necessary for the above mentioned work of building a wall could be purchased by the treasurer otherwise than by contract. The opinion of the corporation counsel was as follows:

"It is evident that the word 'work' is used in the statute in a general sense, including both the labor and the material necessary for the complete structure to be built under the new plan of improvement of the water front.

"Authority is given by the statute by the unanimous vote of all members of the board to make the complete structure without contract, except, however, the dredging incident to such construction, which is required to be done by contract.

"I am, therefore, of the opinion that by the force of the statute and the unanimous vote of the members of the board of docks, the entire work of building the bulkhead or river wall mentioned in the resolution, including both the material required and the labor to be performed, may be procured without contract, and therefore, that supplies for the work may be purchased under treasurer's orders exceeding in value \$1,000."

Claiming to act under said statute and the interpretation thereof given by the corporation counsel, which opinion was based upon the construction of a stretch of the very kind of work, to wit, the

under-water building of the sea wall or bulkhead front of the city, which said particular work was undoubtedly that which was in the contemplation of the Legislature when it authorized the work to be done without contract upon the unanimous vote of the dock board, the present commissioners of docks have assumed that authority was given it to purchase all of its supplies and materials for any purpose connected with its construction work without competition, upon unanimous vote of its members, by what is known as treasury orders. The amount of these treasury orders exhibited to the committee for about the first year and a half of the new city was upwards of \$700,000, and covered certain staple products at prices in many instances higher than paid elsewhere, for the procuring of which by public competition other departments had no difficulty whatever.

For instance, thousands of dollars worth of treasury orders for asphalt work was given to a new company which, so far as appeared, had prior to these orders never done any satisfactory asphalting in any northern city, for very high prices and on only five years' guarantee, while the ordinary asphalt contract for the city has been a fifteen year guarantee. Thousands of barrels of cement have been bought on these orders from a particular company, at a price higher than the same company sold the same cement after competition at public bidding.

The inference from the names and associations of the people who received these treasury orders is convincing to your committee that such orders were all the result of favoritism, influence or "pull." At the same time it cannot be said, in view of the statutes and the said opinion, that the action of the dock commissioners was clearly illegal. That it was an evasion of the



spirit and intent of the laws governing public contracts seems clear.

While we are willing to concede that the peculiar difficulties attaching to part of the work of the dock board should permit a certain elasticity, and are unwilling to advise that the power of doing said work by the department itself and without competition, should be taken away from it, yet at the same time, there seems no possible reason why for the purchase of ordinary marketable supplies the dock board should not be held to the same strict rule of public competition and public bidding which attaches to the other departments.

We have prepared a bill amending the charter in that regard and urge its passage.

#### JUDICIAL ASSESSMENTS.

In response to the request of many citizens, and resolutions passed by the City Club, the Chamber of Commerce and the Association of the Bar, the committee made an inquiry into the question of the assessments of candidates for judicial office for political purposes. A large mass of evidence was taken in regard thereto and all of the judges of the courts of record then in the city of New York appeared at the request of the committee and expressed their views. While there was some divergence of opinion expressed by these judges as to the propriety of legislation prohibiting the levying of assessments or the paying of contributions by candidates for judicial office, yet your committee is of the opinion that action should be taken by the Legislature, and therefore recommend appropriate legislation.

## CONTEMPTS.

The Committee having been authorized by the Assembly to sit after the adjournment of the Legislature and having no inherent powers to enforce its mandates or to compel answers to questions, was to some extent embarrassed by a few contumacious witnesses.

During the session of the Legislature contempt of its Committees can be promptly dealt with by the Committee reporting to the House from which it originated, and that House treating the contumacy as a legislative contempt under the Legislative Law.

After the adjournment of the House, the only provisions of law governing the subject appear to be sections 68 and 69 of the Penal Code, which provide for a criminal prosecution of persons who either refuse to obey the subpoena of the Committee or who refuse to answer pertinent and material questions. These sections, of course, for their enforcement require the active co-operation of the district attorney's office. Former committees, even when appointed by houses of the Legislature controlled by one political party, have received the active aid and assistance of the district attorneys in this county of an opposite political faith.

On the 14th day of October, 1885, when the Honorable Randolph B. Martine was district attorney, an indictment was found in this county against one Monmouth B. Wilson for refusal to answer a question put to him as a witness before the so-called Gibbs Committee,—a Committee of the Senate of the State of New York, said Committee sitting for the purpose of taking testimony in the City of New York after the adjournment of the Legislature.

On July 5, 1894, December 7, 1894, and December 14, 1894, the Honorable John R. Fellows being then district attorney, indictments were found against three different people under sections 68 and 69 of the Penal Code for refusing to obey subpoenas or answer questions before the so-called Lexow Committee,—a Committee of the Senate, which Committee at the time of the alleged offenses was sitting for the purpose of taking testimony in the City of New York after the adjournment of the Legislature; and upon that investigation Mr. Fellows openly appeared at a public session of the committee and tendered all the powers of his office in aid of the work of the Committee.

The present District Attorney of New York county, in marked contrast to every other official in this locality, from the Judges of the Supreme Court to messengers of the department, alone, openly questioned the power of the Committee, abused its integrity of purpose, denied its authority and refused to obey its process.

Powers of investigation for the purpose of obtaining facts upon which to base the remedial legislation, are among the most important possessed by the Legislature. Almost all preceding committees have had cause to complain of the inadequacy of the law defining and supporting their powers in dealing with witnesses. We believe that there should be some amendment of the statutes in this regard. We do not believe that the power to commit for contempt should be possessed in the first instance by any legislative committee. It must be in its very nature an inquisitorial body and not a tribunal. There can be no defendant before it having the constitutional right to be represented by counsel. Such ap-

pearances as are permitted are always in the nature of favor and upon the plea of aiding the committee in its investigation of facts. As our government is one of party, in the very nature of things a majority of the committee will be made up of the dominant party in the house which appoints it. The liberty of the citizen, both in person and to the privacy of his purely personal affairs, is of the utmost importance, and should not be entrusted to the ultimate determination of such a body. While, therefore, we do not advocate any increased powers of determining the materiality or pertinency of a question, or power to commit for refusing to obey subpoena or to answer questions, to the committee itself, we do think in the larger interests of the State a prompt and efficacious way should be provided under which such questions may be determined by a proper forum, where the person proceeded against may have full opportunity of explanation and defence.

During the session of the Legislature this is provided for by the requirement that the committee should report to the House and the House should determine the question. There seems to be none provided while the House is under adjournment. We therefore respectfully suggest that § 854 of the Code of Civil Procedure should be amended to cover this question of contempt before a legislative committee, and have prepared a bill therefor and urge its passage.

### CONCLUSION.

There are many other matters brought out in the testimony before the committee which it would be possible to advert to, but they fall readily within one of two classes; first, bad administration, for which we believe, as pointed out frequently hereinbefore, there is no legislative remedy, and, secondly, the defects of the

charter disclosed by the actual working thereof, which will undoubtedly be the subject of the action of the proposed revision commission. The important matters, we believe, we have covered.

Even if no great reform, either in administration or legislation, shall be the result of the committee's work, we believe that it has been and will be hereafter of the highest importance. We believe that in a free government publicity is absolutely essential. For the first time, by sworn evidence of witnesses of the highest authority, we have a complete exposition of the system, theory and practice under which our greatest city is governed. Things hinted at, suggested, the subject of rumor, have now been fixed beyond the possibility of denial, in permanent form. The remedy has been clearly pointed out. We believe in responsible government. We believe that the people should be thoroughly informed of the nature, the ideas, the methods and the purposes of that government. Being informed, they can apply the remedy if they wish to. If they do not, there is none other which this committee can suggest.

On this subject of publicity, we advance, as a suggestion to the proposed charter revision commission, that all board meetings should be public. The scheme of the charter, as explained by the commission, was that where a department was mainly executive its head should be a single commissioner, but where discretionary or appellate powers were granted, the head should be a board. The very fact that the boards do exercise great discretionary and appellate powers should insure the utmost publicity in the performance. Therefore, the committee urges that all meetings of the board of estimate and apportionment, the board of public improvements, the board of sinking fund commissioners, the police



board, the dock board, the board of City Record, and in fact all of the city boards, should be held in public.

Respectfully submitted,

ROBERT MAZET,

*Chairman.*

EDWARD H. FALLOWS,

MORRIS WILSON,

THOMAS M. COSTELLO,

JAMES B. McEWAN.

The minority dissent from the foregoing report and the conclusions therein contained, and will submit a statement of its views.

BENJAMIN HOFFMAN,

ANTHONY J. BOLAND.



# STATE OF NEW YORK.

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No. 27

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## IN ASSEMBLY,

JANUARY 15, 1900.

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### FINAL REPORT

OF THE

MINORITY OF THE SPECIAL COMMITTEE OF THE ASSEMBLY APPOINTED TO INVESTIGATE THE PUBLIC OFFICES AND DEPARTMENTS OF THE CITY OF NEW YORK AND OF THE COUNTIES THEREIN INCLUDED.

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*To the Honorable the Assembly of the State of New York:*

The undersigned, a minority of the Committee appointed under a resolution of the Assembly adopted March 29, 1899, and said to be continued by a resolution adopted on the 26th day of April, 1899, dissent from the report presented by the majority of the Committee in the particulars following:

As to the report of the majority in general, we feel justified in claiming that it is grossly unfair, conspicuously partisan, coarse in language, vituperative in temper and absolutely unjustified except

by the reckless disregard and perversion of the proof adduced before your committee. In all these respects it agrees with the methods pursued by the counsel of the committee at all its hearings.

In a preliminary report submitted to the Assembly of 1899, we deemed it our duty to direct attention to the notorious fact that the committee had been from the beginning discredited before the people. That the partisan purpose of its creation was universally recognized, that the appointment of two dismissed office holders as counsel was accepted as a clear indication that the aim of the committee would be revenge, rather than reform, that the insulting treatment of witnesses and the ignorance and incompetency with which they were questioned had aroused public disgust and indignation, and that the people, the press and the pulpit were unanimous in their unfavorable characterization of the committee and its proceedings; that the self-respecting and fair-minded citizens of the State, without regard to political affiliations, were opposed to the continuance of the committee and its discreditable practices and would, at the first opportunity, publicly condemn both. This condemnation, it will be remembered, was visited upon the committee and its counsel in a most unmistakable manner at the last general election; up to which time both had always acted together. Since the election the committee has separated from the most notorious of its counsel, and the counsel have divided among themselves.

Instead of profiting by this experience, the partisan majority of the committee proposes to show just how limitless is their capacity for unfairness and downright misrepresentation. The majority report is framed upon the lowest levels of partisan spite and political prejudices. It, in no single line, sentence,

conclusion or recommendation, rises above the dignity or importance of the hired, professional, disgruntled agitator. To those familiar with public utterances in the city of New York it will be at once recognized as the reproduction of a vulgar stump speech made familiar to them in many campaigns by the junior counsel to the committee, much to the dismay and always to the defeat of any candidate in whose behalf it has been uttered, so that it may be said that the charges, complaints, falsehoods, insinuations and detractions set forth in the majority report have already been unfavorably passed upon by the community of the city of New York.

A most striking illustration of the partisan arrogance and hypocrisy which has dominated the committee from its very inception is to be found in the paragraphs of the report wherein the majority give expression to the pharisaical indignation with which their souls are filled, upon discovering that there is a "boss" system associated with our politics. But even in this the majority of the committee lack both the courage and candor to point at the typical, though "easy," boss. They may try to mask and conceal him in quite the same subservient manner that they protected him from the subpoena of the committee, and refused our insistent demand that he should be called to the stand as a most unique, necessary and desirable exhibit. The people, however, again and again demanded, in a spirit of fair play, that the boss of our State politics should be questioned as to the source and sanction of the authority which he admittedly exercises in governmental affairs, as to the character and strength of the recommendations for appointments and nominations which he has dictated, and which he now controls, as to the corporate and other influences operating under his guarantee, and the

reason therefor (whether political, social or financial), as to his connection with the legislative brokerage concern which undertakes, for a consideration of one kind or another, to insure to the citizen or corporation knowing the ropes the success or defeat of any proposed legislation affecting him or them, or his or their interests just as and when desired, as to his identification with the "family law firm" and his profits therefrom, as to his accumulations by reason of his political connections and political domination, as to whether the signing of the Ramapo Water Bill increased his income, and as to whether the failure of the Astoria Gas Grab had disappointed his financial expectations. The people's call for the production and the examination of the State boss was both loud and long, but without effect upon the committee until the people had their opportunity at the polls.

In keeping with the partisan conspiracy of which the committee and its work is but a solitary element, is the recommendation of the creation of a commission to revise the city charter, to be appointed by the Governor. A singular example of how minds of varying greatness dominated by the same political force or personality will agree upon a political proposition, is the coincidence that this very same recommendation is to be found in the message of the Governor himself. We believe and insist that any commission to revise the charter of the city of New York, should be appointed by the Mayor of that city, and in its majority should represent the ascertained and acknowledged political majority of that community. It should not be made up by the Governor, who holds his present position against the protests and votes of a majority of that people, because then it would be constituted in large part by the Governor's political or social friends. Above all things else the men selected as



Democratic representatives on such committee, should not be, as have been all of the Governor's other appointments in that direction, Democrats who voted for Roosevelt for Governor, McKinley for President, and Low or Tracy for Mayor, but should be Democrats identified with the Democratic organization, having the respect and confidence of men of that political faith, and who have at some time since 1892 voted for Democratic nominees. The scheme of having the charter of the city revised by a commission which in its majority will represent the political sentiments and the political attachments of but a very small minority of the citizenship is simply to provide a government by commission in another form.

#### THE MAYOR.

It is alleged in the report of the majority of the committee as "a fair inference from all the evidence" that so far as appointments are concerned the Mayor "has practically abdicated his powers, and exercises merely a registering function," and that "the real ruler of the city is a private individual holding no office, amenable to no law, bound by no oath, and yet exercising almost absolute control." Just how fair is the inference prompted by partisan spite can best be judged by a few extracts from the testimony given by the Mayor.

Q. Do you mean to say that you sit in the Mayor's chair entirely independent of any influence whatever with regard to your appointments?

A. Yes, sir, I am judge of everything. I won't make an appointment for anybody if I don't think it is all right.

(Page 1455, stenographer's minutes.)

Q. We are trying to find out and talk about the influences that control the government of the city of New York?

A. I will tell you the immediate influence that controls the Mayor. It is Robert A. Van Wyck.

Q. Nobody else?

A. Nobody else.

Q. Nobody else dares to?

A. Nobody else dares to control me.

Q. Do you mean to say that the heads of departments appointed by you were not selected in conference with other men than yourself?

A. Yes, I say if Mr. Croker had been dead, and had been dead four months before, I would have appointed every one of them.

Q. Do you mean to say he had no voice in the selection of these gentlemen?

A. I mean to say my mind finally reached a conclusion about putting everybody in.

Q. Do you mean to say he had nothing to say about the selection of those men whom you appointed?

A. I suppose every man in New York said something about it and he included.

Q. He included?

A. Yes.

Q. Do you mean to say that the gentlemen whom you appointed as heads of departments were not the selection of the organization which you refer to?

A. No, sir; the selection of the Mayor.

Q. Were they not suggested to the Mayor by the organization?

A. They were suggested by six or seven thousand people—ten thousand.

Q. In those six or seven or ten thousand, were they not suggested to you by the organization representative?



A. Officially by the organization?

Q. By the organization representatives.

A. No.

Q. Were they not suggested to you by Mr. Croker?

A. Suggested to me by everybody in New York.

Q. Were they not suggested to you by Mr. Croker?

A. I suppose he talked them over like other people.

Q. Did he not talk them over, or most of them?

A. I don't know. They are my appointments and I stand sponsor for them. I would have appointed them if he had been dead.

Q. And who stands sponsor for you?

A. I stand sponsor for myself.

(Pages 1457 and 1458, stenographer's minutes.)

As against the buncombe of the majority of the committee it can be accepted as a patent fact that every citizen whose good opinion is worth having will accept the sworn statement of the first Mayor of Greater New York.

#### BOROUGH AND BOROUGH PRESIDENTS.

The majority of the committee evidently misconceive the purpose in view when the office of Borough President was provided for in the charter. His work, it was expected, would consist largely in the duties devolving upon him as the presiding officer of district and borough boards where contemplated local public improvements had their very inception would be discussed, advocated, proposed and criticised by the people most directly interested in or affected by them. The Borough President was made a member of the Board of Public Improvements that he might carry to that board the net result of such hearings, and

thereby save the time of the heads of the departments on that board, and do away with the necessity of their attending protracted hearings at the meetings of the board, and by his voice and vote sustain such conclusions as the district and borough boards might have determined. To give to an officer of limited and local administrative jurisdiction the right to vote upon every question coming before a board of a jurisdiction co-extensive with the limits of the greater city itself is to reverse all correct principles of government as established and recognized throughout the civilized world. It is not impossible that under such a radical change in the charter the lesser portion of the community might control the greater.

To make any possible defect or incongruity in the provisions of the charter regarding borough presidents an all-sufficient reason for the creation of a charter revision commission is at once both stupid and laughable.

### THE POLICE DEPARTMENT.

Under this caption the majority of the committee repeat all the stale, threadbare and exploded falsehoods concerning the administration of the police department of the city of New York, the conduct of the board of police commissioners, the discipline of the force, the extent of crime and the influences operating with police officials in the conduct of their several offices. In this the majority of the committee simply reiterate the irresponsible after-dinner utterances of a discredited political candidate whose failure to obtain office seems to him a justification for describing the metropolis as he would have it, rather than as it is. It is fair to say that his residence is now, as it was at the time of his candidacy, a matter of grave doubt and

dispute, and his interest in the government of the city cannot be more than transient in its character. The answer to some of the criticisms passed upon the police department may be found in the subjoined editorial comment of the *New York Sun* under date of December 8th, 1899, and in submitting to your consideration this candid and truthful explanation of the city's condition, we feel we are inviting your attention to an authority which we know you will respect.

#### "THE TENDERLOIN.

"Mr. Charles A. Hess, the Republican leader in the Twenty-fifth Assembly District, made some jocose remarks the other evening, at a complimentary dinner to him, about the so-called 'Tenderloin District,' with which the political district is largely coterminous. 'It can boast of a class which, for education, refinement and culture, cannot be excelled,' he said, but he went on to describe it as also the seat of vice and crime unrivalled in their seductions or opportunities.

"The 'Tenderloin District' is specifically the Nineteenth police precinct, and extends from Fourteenth street to Forty-second street, and from the Fourth avenue on the east to the Seventh avenue on the west. It derives its name from the remark of Police Captain Williams when he was sent thither from an uptown precinct, that he was leaving the rump to feed on the tenderloin, his reference being to the richness of the precinct in pecuniary opportunities for police captains.

"Now, this 'Tenderloin District' contains the great majority of the important theatres of the town and many of its most notable hotels and restaurants. Along with these naturally have gathered resorts not so reputable. It is also the fashionable centre of New York, and it still contains the residences of a large part of the rich, well-to-do and conservative families of the town. It is also the great region of churches. Nowhere else in America is there contained in an equal area so much of wealth, dignity, re-

spectability and religious sobriety as in the now famous 'Tenderloin District' of New York. It is also the district of the town in which, as we said the other day, that sort of people are likely long to remain, with an extension to the northward up to Central Park and along its easterly side on the Fifth avenue as an especially distinguished seat of magnificent wealth.

"To the west of Broadway there is, undoubtedly, through a part of the 'Tenderloin District' the unfavorable manifestation to which Mr. Hess referred; but Broadway, from Fourteenth street to Forty-second street, as everybody in New York knows, is notable for its gay activity. Late into the night the street is filled with light and bustle; but in the residence region quiet and order, almost suggestive of a country village, prevail as soon as nightfall sets in. Except for the sporadic invasions of trade, chiefly that of milliners and modistes, it is peculiarly a region of model homes. The hotels in the district are also of the best class and the theatres are all of the same kind. Not in Paris itself are there to be found better restaurants than those on Broadway and the Fifth avenue where they run through this district.

"The 'Tenderloin District,' therefore, deserves a distinction very different from that which its name has given to it in the minds of strangers to New York. It is the region in which there is more of social excellence and cultivation than can be found anywhere else in an equal area of New York or any other part of America. Even the badness of its bad side is exaggerated grossly and must be sought out instead of its being an all pervasive and flaunting temptation for the unsuspecting."

In addition it may be observed that it is a very noticeable fact that while dishonest and prejudiced men, for their own selfish and unworthy interests, decry the city of New York as a sink of iniquity, dominated by vice of every kind, with crime rampant at every corner, the police department demoralized, all our officials corrupt, and the government in its every department foul



and loathsome, nevertheless the wealthy, intelligent and enterprising citizens from every quarter of the country who flock to the city here establish their permanent homes, and rest in absolute security both as to their persons and possessions. It is not claimed that in a community of nearly four millions of people the man who determinedly searches for it may not find vice, it is not compatible with the appetites and inclinations of frail human nature that in such a community there should not be crime, but what we claim, and before any fair-minded tribunal can establish by proof that if challenged cannot be controverted, is that in the five boroughs of the greater city organized crime has not been able to find a secure lodgment, and its only temporary refuge has been in the dives and vicious resorts established under the protection and sustained through the encouragement of the infamous Raines Liquor Law.

As to the discipline of the force, the capabilities of the officials in command, and the effectiveness with which it can be handled, no single word is necessary while the unapproachable and incomparable record of the land and naval parades attending the reception of Admiral Dewey are fresh in the public mind. In no single instance has the necessity for the maintenance of law and order, the protection of property, the defense of person, whether associated with vast or humble interests, found the police force, or the officials directing it, wanting in unity, courage and efficiency.

#### WATER SUPPLY.

The suggestion of the majority of the committee under this head to repeal section 1619 of the charter, which protects the county of Suffolk from an invasion of its territory by reason of the needs of either of the five boroughs of the greater city, will

meet with a determined and unanimous protest from the residents of that county. They are busily employed now in collecting damages for the injury sustained by them in the destruction of their farms through the forceable drafts already made upon their water supply, and it is natural that they should desire to complete such collections before they are furnished with a cause for further demands against the city treasury, based on a precisely similar cause.

### BUILDING CODE AND BUILDING COMMISSION.

In criticising the administrations of the Building Department it is claimed by the majority of the committee that here again they found "the dominant theory of the present government, corrupt pull and favoritism for private gain in evidence." And yet when the commissioner at the head of that department was examined as a witness before the committee (see pages 1212 to 1224 stenographer's minutes) the only questions relating to the department propounded were the appointment or retention of confidential examiners, confidential inspectors and other employees in his department, the reasons for apparent distinction in the salaries paid employees of similar grades, the motives actuating him in certain increases of salary and the incidents immediately connected with his appointment. His examination had on April 22d, 1899, was interrupted by an adjournment until April 24th, 1899, and although continued in attendance upon the committee from time to time by subpoena, he was never called to conclude his examination nor was he ever interrogated upon any single complaint or allegation directed against the management of the department over which he presides. Instead of calling him at the next subsequent hearing as the first witness, as



would be the case in any legitimate inquiry, he was subjected to the unfair treatment accorded all the public officials examined in the denial to them of an opportunity for vindication from the aspersions made against them by characterless witnesses. If, as is claimed in the report of the majority, many grievances against the department were reported in confidence by architects and builders to either the counsel or any member of the committee, we desire to place upon record that such complaints were treated as dark secrets and were never communicated to the minority. It is difficult for the minority so situated to treat such grievances, or the alleged grievances based upon them in any way other than as dreams.

#### AS TO THE NEW BUILDING CODE.

In reply to the criticism as to the composition of the provision for the Board of Examiners as provided for both in the Charter and the Building Code, we are content to quote the annexed editorial from the *Real Estate Record and Builders' Guide*, a newspaper of the highest authority, under date of December 30th, 1899.

"An appeal board, consisting of men from outside of the Building Department and free from political influence, is a necessity. Such boards are provided for in the latest building laws of the great cities. London has a Tribunal of Appeal made up of one member appointed by the Royal Institute of British Architects, one appointed by the Institute of Civil Engineers, one appointed by the Institute of Surveyors, etc. Boston has a Board of Appeal made up of one member appointed by the Mayor, one architect appointed by the Boston Chapter of the American Institute of Architects, and one member appointed by the Master Builders' Association. St. Louis has a Board of Appeal made up of

one member of the Board of Fire Underwriters, one architect, and one master builder, all appointed by the Mayor. Philadelphia has a Board of Appeal composed of the entire corps of building inspectors, and a further appeal from this board to the Director of the Department of Public Safety, and the latter must then appoint three disinterested experts who must be master builders, engineers or architects. Expense attaches to appeals in all the various cities except in New York. Under the new code, and in accordance with the letter and spirit of the charter, the Commissioner of Buildings in the Boroughs of Manhattan and the Bronx no longer requires the concurrence of the Board of Examiners in varying the provisions relating to construction. It is only when a party aggrieved objects to the decision of the Commissioner that an appeal is to be made to the Board of Examiners. Instead of from twenty to seventy cases to be acted upon as formerly at each meeting of the board, probably the number hereafter will be one, two or three, or a very small number at any rate."

### THE MUNICIPAL ASSEMBLY.

It was to be expected that a majority seeking only partisan advantage, in choosing as to the continuance of one of two legislative bodies, should favor that particular one in which the representation of their political party was greatest. This will account for the recommendation in the majority report that if but one legislative body is to remain under proposed charter revision, then it should be the Board of Aldermen, for there the Republican membership exceeds by a few the Republican membership of the Municipal Council.

### TAX DEPARTMENT.

In no instance is the perversion of the testimony and the grossness of misrepresentation so distinct and unmistakable as in the comments of the majority of the committee on the work of this

department. In the comparison of assessments upon which the charge of unfairness was attempted to be based, the questions propounded contained no mention as to the dimensions, character, condition or surroundings of the parcels contrasted. The evidence, instead of disclosing any partiality in the work of this department in its valuations of property, furnishes abundant proof that all citizens were treated with equal fairness, and no distinction made as between the most influential and the most humble. For any manifest abuse of their powers in favor of or against any individual citizen, the law furnishes an easy and ample redress. The insignificant number of appeals, as compared with the total number of valuations, taken to the Commissioners' rulings is a complete answer to the unwarranted aspersions levelled in a spirit of partisan hate and intolerance against this department.

#### DOCK DEPARTMENT.

The only criticism indulged in by the majority of the Committee as to this Department is in reference to what are known as treasury orders. Directly in face of the evidence adduced before the committee, it is made to appear through statements of wilful misrepresentation that the Commissioners of Docks and Ferries are chargeable with an abuse of their power in this connection. The truth is that it was positively proven before the committee by testimony neither impeached nor contradicted, that under such orders better results as to price and quality were obtained than was possible at public letting for the purchase of the same articles. That with the single exception of the Uvalde Asphalt Company, the individuals and corporations in receipt of treasury orders under this administration had received similar

orders, and to as large an extent, under the preceding so-called reform administration. It was clearly shown that the reason for the exclusion of the Uvalde Asphalt Company was that it had not been included in the asphalt trust, and that so closely with said trust was the previous administration identified that this company had been refused permission to lay a few blocks of pavement at its own expense to prove the character of its work. To refute the baseless charge, stated as an inference though it be, that such orders are the result of favoritism, influence or pull, we herewith give the names of the stockholders of the above mentioned asphalt company so favored, as appears in the testimony taken before the committee (page 5135 of stenographer's minutes):

Mali & Co., Johnson Livingston, John E. Berwind, Grant B. Schley of Moore & Schley, Herbert L. Terrell, James Van Sicklen, Abraham Van Sicklen, Peter M. Van Sicklen, F. Stroer Brown, Edward J. Berwind, John D. Marston and R. T. Rokeby.

The majority of the committee are careful to conceal the fact that under the present administration the rental of piers, in no-wise improved during the past two years, have increased on an average of 22 per cent. above the rentals received under the administration of Mayor Strong. They studiously avoid all reference to the fact that in the purchase of the same materials the prices paid under the present administration are much lower than those which previously obtained. That rip rap, purchased in exceedingly large quantities, for which 45 cents was paid under the Strong administration, is now procured for 25 cents; that cobble costing 89 cents under the Strong administration is now procured for 50 cents; that broken stone which cost \$1.50 under



the Strong administration is now purchased for 95 cents, and all other articles in the same comparison.

(See page 7553, stenographer's minutes.)

With these examples of the unblushing deception attempted by the majority of the committee, we dismiss as unworthy even the consideration thus far given them their comments as to this department.

### CONTEMPTS.

A full excuse for all the contempts shown the committee might be found in the outrageous and inexcusable conduct of its counsel. To say that the methods pursued in the treatment of witnesses, the character of the questions propounded, the antics indulged in for spectacular effect, the studied unfairness with which every department official and citizen of the Democratic political faith was treated, the sickening sycophancy and subserviency with which witnesses from the Republican party were catered to, the determination and vigilance exercised to exclude from the record every word and every statement which proved the wisdom, frugality and efficiency of the city government, the anxiety to cloak the defects and smother all mention of the iniquities of the corrupt and incompetent and narrow administration with which the counsel himself had been identified as an office holder, could deserve for the committee nothing better than the contempt in which it was held by every citizen of manly instincts and decent promptings.

If a legal reason to excuse the refusal of Mr. Platt and several other witnesses to answer the questions propounded to them is required, it will be furnished in the law under which the committee was in itself an illegal act. There is no plainer provision in the statutes than is to be found in the legislative law requir-



ing that any such committee as this claimed to be can be appointed only under a concurrent resolution of both Senate and Assembly. How silly then it is to complain that the present District Attorney did not institute criminal proceedings to sustain the authority of a committee illegally constituted.

### CONCLUSIONS.

We have but a single recommendation to make, and that is that the people of the city of New York be permitted to govern themselves. At the same time we embrace the opportunity of directing attention to the fact that the intelligence of our citizenship is quick to detect the bogus investigation conducted on partisan lines for partisan purposes, in contrast with an honest inquiry intended to aid the Legislature in the intelligent discharge of its functions in framing legislation demanded by the people.

From the beginning this committee stood discredited; that it had been organized for a partisan purpose was universally proclaimed, and with equal unanimity admitted. The barrenness of results to which it is obliged to make humble confession, was predicted of it at its very birth. When 225 firemen and policemen were subpoenaed for the purpose of showing a favoritism which protected them from punishment for their offences against the rules of their respective departments, and but five from each department were called when it was discovered that four out of each set of five had been appointed under the reform administration, and that an equal proportion of the entire number constituted an undesirable product of the operation of so-called civil service laws, the hasty and disorderly dismissal of the rest from attendance upon the committee was accepted as an indication of

the true character of the work for which the committee had been formed. The people are not slow to recognize such transparent injustice, and the meanness associated with any and every attempt to gain partisan advantage by such methods.

There will always be serious political differences dividing our citizenship, but let us hope there will never again be so contemptible an exhibition of the depths to which partisan bigotry can descend.

All of which is respectfully submitted.

BENJAMIN HOFFMAN.

ANTHONY J. BOLAND.



# TESTIMONY.

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TRIAL TERM, PART III, SUPREME COURT, COUNTY  
COURT HOUSE, NEW YORK, N. Y.

SATURDAY, *April 8*, 1899—10.45 A. M.

The committee met pursuant to resolution.

Present: Messrs. Mazet (chairman), Fallows, Costello, McEwan, Hoffman, Boland.

Mr. Mazet—This committee has met here this morning in pursuance of a resolution adopted by the Assembly of the State of New York on the 29th day of March, and I will ask the clerk to read the resolution.

The clerk read as follows:

“Whereas it is currently reported and generally believed that in the city of New York funds are being raised by levy upon the members of the police force, saloon and resort keepers, and by other contributions, for use in corruptly influencing legislation; that there is a lax enforcement of the laws in said city and in the counties included in said city; that corrupt and tyrannical methods have been resorted to in the enforcement of the same, and that the public funds of said city are being wasted in extravagant increases of official salaries and in other ways; and

“Whereas it is deemed desirable for the public good that there should be a legislative investigation into all and singular the facts upon which said reports and charges are made, to the end that any action of the Legislature in reference thereto may be the more intelligently taken; therefore,

“Resolved, That the Speaker of the Assembly be, and he hereby is, directed to appoint seven members of the Assembly, who shall be a special committee of this body, with full power and authority to investigate all and singular the said reports and charges and all matters and things in any way pertaining thereto, and with full power to prosecute its inquiry in any and every direction in its judgment necessary and proper to enable it to obtain and report the facts in reference to said charges; and further

“Resolved, That said committee be, and it hereby is, authorized to employ one or more stenographers and one or more counsel and such other assistants as it may deem necessary for the

proper conduct of the investigation herein directed, and that it shall have the power to compel the production before it of any books and records, letters or documentary evidence of any character which in the judgment of the committee pertains to any matter or thing under investigation and wherever found; and also to compel the attendance of any witnesses, such production of documents of attendance of witnesses to be required by subpoena signed by the chairman of the committee or acting chairman or one of the counsel to the committee. Any member of said committee may administer the oath to any witness produced before it; said committee may hold its meetings in both the city of New York and in the city of Albany. Any member or members of the committee and its counsel, clerk or clerks, shall have access at all times during the life of the committee to all books, records, papers and other documents on file in the office of the various departments in said city and county and the various subdivisions thereof throughout said city and counties, said committee shall exercise and employ all the powers, privileges and authority of a legislative committee with full power to enforce its directions and mandates; and further

“Resolved, That for any testimony given before said committee it is the judgment of this body that no witness shall be prosecuted, indicted, held liable or proceeded against in any other action or proceeding for any testimony given by him before said committee; the sergeant-at-arms of the Assembly shall attend said committee and shall serve or cause to be served all subpoenas issued by the committee and perform all duties as sergeant-at-arms required by the committee.”

The clerk called the roll.

Mr. Mazet—Are you ready to proceed, Mr. Moss?

Mr. Moss—Yes. Mr. Chairman, before we proceed I desire to say, for the associated counsel, that we undertake this work together, with the idea that its purpose is that legislation may be passed to remedy the evil conditions which it is believed exist and which we will undertake to develop. The investigations preliminary which we have made convince us that the conditions exist; and we purpose to show them to you in such a way that the legislature may pass the remedial legislation that may be needed.

That is our view of the work which we have undertaken.



I wish to say that the counsel will proceed in this matter together with the committee, and are proceeding with perfect confidence in each other; and that the investigation, the development of testimony will be the result of the conferences that will be held between the counsel and the chairman of the committee, as such enforcements have been held.

We wish to say that we invite the confidence of the people generally throughout the community. They may come to us with perfect freedom, and depend upon our proper treatment of the matters that are laid out before us, and depend upon our utmost endeavors to protect them from any interferences with their rights.

Mr. Mazet—I simply desire to say that I do not believe that I can add anything to what the counsel has already stated as to the attitude of the committee and the line of investigation, except to add that he has expressed the views of the committee fully, and that the committee is fully in accord with the statement he has made in this matter.

Dr. O'Sullivan—Mr. Chairman and Gentlemen: If Mr. Moss will permit me, I desire to go on record as appearing for the officials who are involved in this investigation, or comprehended within its scope; I desire to go on record as appearing for them; and I appear with the instructions to facilitate in every way possible the inquiry and the scope of the inquiry of this committee.

Mr. Mazet—Under whose direction, Mr. O'Sullivan, do you appear?

Dr. O'Sullivan—By the directions of the various heads of the departments, sir.

Mr. Mazet—As representing the city?

Dr. O'Sullivan—Those that will be comprehended within the scope of your inquiry. The heads of the different departments are just as anxious as this committee to discover if there are any wrong doings in the many departments in the large number of incumbents in those departments; and my instructions are, so far as my meagre abilities will enable me to, the inquiry so that it

might be both official and thorough, if I could in any way add to that effort.

Mr. Mazet—The committee, I think, ought to have this matter clearly understood at the outset, Mr. O'Sullivan.

Dr. O'Sullivan—Yes.

Mr. Mazet—That you do not maintain as a matter of right the appearing as counsel for any prospective witnesses?

Dr. O'Sullivan—I so understand it.

Mr. Mazet—You do not claim that as a matter of right?

Dr. O'Sullivan—Not as a matter of right. I ask it from this committee as a matter of privilege.

Mr. Mazet—That you do not claim it as a matter of right, and that you appear here to-day to facilitate this investigation rather than obstruct and retard it.

Dr. O'Sullivan—My instructions are to facilitate and not in any way to obstruct, because the heads of the departments that I am here to look out for in some respects are just as anxious if there are any wrong doings in their departments to locate them, and they think that if there are any they have so far eluded their vigilance and they are willing to co-operate with this committee in locating them.

Mr. Mazet—Then you understand that the committee takes the ground that none of these witnesses have any right to appear here with counsel as they might in a trial in a court of law.

Dr. O'Sullivan—I so understand it, sir.

Mr. Mazet—That is the understanding of the committee.

Dr. O'Sullivan—Yes, sir.

Mr. Mazet—And that there will be no plea allowed to counsel to raise objections to a line of examination of witnesses here, or to interfere or object as to the course of proceeding.

Dr. O'Sullivan—I understand, sir.

Mr. Mazet—If counsel representing witnesses desires with a view to bringing out the facts and of aiding the committee in the prosecution of the work for which it has been sent here, to ask questions the committee will not say now that it will refuse

such a privilege, but when the time comes that this request is made the committee will take it under consideration, and if it deems wise and prudent, will grant that request, having in view the idea to bring out the facts and the truth, as you have already stated.

Dr. O'Sullivan—And the whole truth.

Mr. Mazet—And with that one object in view.

Dr. O'Sullivan—Yes. One of the departments that I represent, may it please the chairman, what plausible stories——

Mr. Moss—I object.

Dr. O'Sullivan—We know wrongdoers tell, in some way it was wrong.

Mr. Mazet—If the opportunity presents itself I have no doubt that counsel of the committee will be glad to have any and all the assistance we can get at the facts.

Dr. O'Sullivan—Very well, sir.

Mr. Moss—Mr. Chairman, I think that the position that you have announced fairly states the agreement that we came to, that is, yourself and the counsel, regarding the present status of Dr. O'Sullivan. There is just this matter that I would like to have understood a little more clearly. The counsel on this side of the table represent seven gentlemen of the Assembly who sit conducting this investigation, and we know exactly whom we represent; and if Dr. O'Sullivan is to have any status at all here, we ought to know exactly who retained him. I do not understand that he comes from the office of the corporation counsel, but that he is here under some special retainer, and I think it ought to be put upon the record who it is that has retained him.

Dr. O'Sullivan—Well, for one department, I am retained by the police department.

Mr. Moss—But what member of the department?

Dr. O'Sullivan—Well, I don't think that is necessary, Mr. Chairman; I don't think a man is expected to disclose his clients.

Mr. Moss—I think it is when——

Mr. O'Sullivan—I say the heads of the departments.

Mr. Mazet.—We want to be perfectly fair in this matter, Dr. O'Sullivan. The question of your fees or compensation might come up; and I think in all fairness we should know whether you represent the department or are retained by the commissioners, or in what manner you appear here as representing the department as you now state you do.

Dr. O'Sullivan—That is as far as I can state, Mr. Chairman, that I represent the department, and who pays me my fee and how much my fee is—I think I am speaking to a lawyer now—I do not believe——

Mr. Mazet—Well, at any rate——

Dr. O'Sullivan—It is usual to disclose such things.

Mr. Mazet (continuing)—At any rate, let us understand that you will make no claim against the State or the city for your services, is that correct?

Dr. O'Sullivan—Yes, sir.

Mr. Mazet—And that your fees or whatever arrangement you may have for your compensation is with individuals and not with the municipal corporation or the State. Is that correct?

Dr. O'Sullivan—Yes, sir.

Mr. Moss—Mr. Chairman, I can not conceive how there can be any question of delicacy on the part of a lawyer coming into court, or before a committee to represent clients. I would never be afraid to state who it is that I expect to pay me my fees. If Dr. O'Sullivan claims to represent the police department I challenge his right to do so, unless he is specially deputed by the corporation counsel. If he is representing these gentlemen as individuals his attitude here would be very different from what it would be in an official relation. I imagine from what he says, and I think I have good reasons for saying so, that his retainer is entirely a personal one from individuals in the department.

Mr. Mazet—I understand it so from the statement he has made. I may be wrong in that.

Mr. Moss—There are two heads of departments, administrative and executive head, the commissioners and the chief. We do not



know exactly whom he represents; he says that he represents for one department; the police department; he does not represent the department; that cannot be; I do not want that we should waste such time about this.

Mr. Mazet—No; I think—I think we ought to have that matter settled now and at once, and it is an important matter.

Dr. O'Sullivan—I am deputed, then, by the corporation counsel, as Mr. Moss wishes me to so state, and for the purposes I have already stated, with the instructions I have already given. I would also say to Mr. Moss's inquiry that I do not appear for individuals, but for the departments and the heads of departments. And that as to his comments on my sense of delicacy, I think it is usual for lawyers not to be very loquacious in respect to the matters of their clients.

Mr. Mazet—Since you have stated your status now, I think that will dispose of it, Dr. O'Sullivan.

Mr. Moss—Then I suppose that that means every department in the city government which may perhaps be affected by the testimony.

Dr. O'Sullivan—Yes, sir; exactly, sir.

Mr. Moss—And by an official retainer?

Mr. Mazet—As I understand it, Dr. O'Sullivan stated that he has been deputed by the corporation counsel.

Dr. O'Sullivan—Yes, sir.

Mr. Mazet—To appear here for the various departments that may come under investigation?

Dr. O'Sullivan—Yes, sir. To aid this committee in making the most searching inquiry.

Mr. Mazet—Yes.

Dr. O'Sullivan—And give every facility for that purpose.

Mr. Mazet—I think we understand the situation now.

Dr. O'Sullivan—Yes, sir.

Mr. Moss—The first witness that I will call is Frank Croker.



WILLIAM ARCHER, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am a member of the building firm of Dawson & Archer, of 24 East Forty-second street. Our firm had the contract for the construction of the building known as Nos. 13, 15, 17, 19 and 21 Park Row and 13 Ann street. This is the contract that I had.

Mr. Moss—I offer this in evidence.

(Marked Exhibit A. H. C. L.)

Mr. Moss—I will state the material parts of this contract. Dated 31st July, 1896, and is made with the Park Row Construction Company and covers the mason work and material for that building. According to the several plans or drawings to which the parties of the first part and the parties of the second part have actually subscribed their names, and the specifications subscribed in the same manner which said plans or drawings and specifications form and are to be considered as part of this contract, and all other kind of work and material mentioned in the said specifications under the head of or as part of the mason work and material, with the exception of the Roebling system. And such other kinds of work and material as are necessary to or are usually performed or furnished in connection with all the above said work or material, etc. There is this further clause: It is further understood and agreed by and between the parties hereto that should the Roebling system of fireproofing of floors and partitions be substituted in place of brick arches and partition blocks, the parties of the second part will deduct from the above said contract amounting to \$330,000 the sum of \$25,000.

Q. Did that mean, Mr. Archer, that if the owners of this building were permitted to use the Roebling system it would cost them \$25,000 less. You offered specifications to them based upon the Roebling system, did you not? A. No, their specifications called for the Roebling system of terra cotta block system.

Q. That is, you figured on both of those systems? A. Alternate estimate, yes.

Q. Now these are systems of fireproofing, are they not? A. Yes, sir.

Q. The Roebling system of fireproofing, and the terra cotta block system? A. Yes, sir.

Q. What is the terra cotta block system—who controls it. A. Well, there is different manufacturers of it, it is called fireproofing.

Q. Yes. A. There is quite a number of terra cotta fireproof concerns around New York. I don't know that they are all in one trust; that is the general understanding in the trade; I don't believe I have ever heard it called the Terra Cotta Trust; I have heard it called a combination; that is a system of hollow terra cotta blocks running through the floors and partitions and designed to prevent the passage of fire through the building; the Roebling system is a system of wire and concrete; the concrete is mixed and then deposited upon this wire, so that there are floors and partitions of concrete. I believe there are other companies besides the Roebling Company that use that method of fireproofing. The Metropolitan is one; they are doing a contract for us now, and I think the other company is the Manhattan Fireproofing Company; there is also the New York Metal Expanded Company; or Expanded Metal Company. The concrete system is lighter in weight than that terra cotta system.

Q. Isn't it an item of great importance in a building so large as this Park Row building? A. Considerable importance, certainly.

Q. Affecting the fundamental strength of the building? A. Yes, and not so much as the saving on the structure and the iron work.

Q. And the saving on the iron, yes. Now you figured on both of these systems and made the figuring upon the Roebling system \$25,000 less than the terra cotta? A. Yes, sir; the fireproof terra cotta block system was adopted.

Q. Did you make a contract for that with some sub-contractor? A. Yes, sir; that is for the furnishing of the material we made

the contract with the Raritan Company—the Raritan Hollow Brick Terra Cotta Company.

Q. Do you know how it came that the more expensive and the heavier system was used in preference to the Roebling system?

A. I am not altogether familiar with that question, any further than what we have learned—what we learned from the architect or the manager that was looking after the building, Foley informed us that he could not get the Roebling system through the Department of Buildings.

Q. Yes, well, was not that a well understood thing in the building trade that the Roebling system and generally the concrete systems of fireproofing could not be got through the department?

A. Most all the contractors in taking estimates on the Roebling system or any other system outside of the Hollow fire brick, fire block system, say that there was a question whether it would get through the department, and as a general thing in taking those estimates we had it stipulated that in case their system should be accepted by the building department.

Q. That is, you made that proviso in all cases? A. As a general thing, yes.

Q. Was any Roebling work done on the building at all? A. No, sir; that building is the one which has been leased by the city for the use of many of the public offices; I think five floors have been leased.

Q. And are they not tearing out those very same partitions?

A. Yes, sir; enlarging the rooms, forming three or four rooms into one.

By Mr. Fallows:

That building is called the Park Row Construction Company building. It is called, I think, the Park Row building. Park Row building, I think.

By Mr. Moss.

Q. Was not that known as the syndicate building while it was being built? A. Well it has been, yes; that is, outside it is; but

not with those that were connected with the contracts in that building. They knew it was the Park Row Construction Company. That was the company the contract was made with, and it was known as the Park Row building.

ABRAHAM L. A. HIMMELWRIGHT, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am the manager of the Roebling Construction Company, a new company that has been formed since the 1st of January; a corporation formed in Trenton, under the laws of the State of New Jersey, that does the fireproof construction work that was being done by the old Roebling Company; succeeded to that portion of the business; we took the fireproofing business out of the general business of the old Roebling Company and incorporated it in New Jersey. The old John A. Roebling Sons' Company is also a company incorporated under the laws of the State of New Jersey, and they took this fireproof construction work out of the old company and formed a new company for the purpose of doing that kind of work. I think the stock of the new company was \$50,000; I am not positive as to that.

Q. Who took that stock? A. I think it was taken principally by Mr. F. W. Roebling.

Q. Well, who else took stock? A. Mr. F. H. Croker; he is the secretary of the company.

Q. How much of the stock did he take—what proportion of it? A. I cannot give you positive information in regard to that, because the company was organized and formed in Trenton and I have only the charge of the practical parts of the work; he took a considerable amount of stock.

Q. Who else took stock? A. Mr. Briggs, F. O. Briggs; Mr. C. G. Roebling and, I think, a gentleman by the name of Hinckley.

Q. James W. Hinckley? A. I don't recall his initials.

Q. A man known in the political world? A. I don't think I ever met the gentleman.



Q. Is he not the chairman of the Democratic State Committee, or was he not? A. Well, really I could not tell you; I never met the gentleman and don't know him; he lives in New York, as near as I know; as near as I can tell somewhere about—I think he has an office on Broadway.

Q. Yes, what kind of business does he do on Broadway? A. I couldn't tell you.

Q. Doesn't he ever appear at the company's office; your company's office? A. I have never seen him in the Liberty street office.

Q. Have you ever seen him in connection with the work of fire-proofing, in which he holds stock? A. No, sir; I don't recollect having seen him at all.

Q. And you are not certain of his first name? A. No, sir.

Q. Who else holds stock, or took stock? A. I think that is all.

Q. Are those persons whom you have mentioned the present owners of the stock of that company, as far as you know? A. As far as I know; F. H. Croker lives uptown on the West side, I couldn't give you his exact address; he is the son of Richard Croker.

Q. Does he attend at the office of the company daily? A. He is there nearly every day; he takes an active interest in the business.

Q. Isn't Mr. Croker also a holder of stock in the main Roebbling concern? A. That is a close corporation.

Q. How, sir? A. That is a close corporation, and no stock is owned except by members of the Roebbling family.

Q. Do you know that? A. I may say I am told so; that is—

Q. Yes. Did your company make bids upon the work to be done in the Syndicate building on Park Row? A. Yes, sir.

Q. And those bids were not successful, were they; I mean the work was not awarded to you? A. The work was not awarded.

Q. You bid lower than the terra cotta people did, did you not? A. Yes; very much.

Q. Twenty-five thousand dollars? A. So I understood.



Q. Yes; what was the trouble? Why didn't you get the contract? Come, speak it out. A. I can't answer that in a very—in a brief way. The difficulty was due to not being able to get the construction passed through the Department of Buildings. It was not a legal construction.

Q. That is, it was so construed by the authorities? A. The building law as it stands now, I understand, would not allow it.

Q. Do you mean to say that the building laws, as they now stand, do not permit of this kind of construction? A. Well, it was so construed for and during the preceding administration by Mr. Constable.

Q. Now, let us see about that—you had this trouble in Constable's time, had you? A. Yes; always had it.

Q. Same cavil made about this system. What efforts did you and persons using your plan of construction make to overcome the objections of Mr. Constable? A. Well, we had one mandamus action against the Building Department.

Q. Well, further than that, Mr. Himmelwright, didn't you and other construction companies conduct a number of tests to prove to Mr. Constable that your system of fireproofing was as good as any other system? A. Yes, sir.

Q. Then who conducted those tests for Mr. Constable? A. They were conducted by the various companies, twelve or fourteen in number.

Q. But who I mean—to whom had they to be made satisfactory for Mr. Constable? Who was Constable's representative at the tests? A. He generally assigned a member of the engineering force.

Q. No; who represented him; give me the name. A. Mr. G. C. Honning; W. W. Ewing; I think a Mr. Harvey, Isaac Harvey; Mr. Wilcox may have been present when the test was finally made, but during the preparation and the completing of the test, the structure and all those details were in charge of Mr. Henning.

Q. Wilcox and Ewing are still in the engineer's—in the department, are they not? A. Yes, sir.

Q. Was not Howard Constable a special representative of the superintendent of buildings, Stevenson Constable, in those tests?

A. Mr Howard Constable, I understand, had general charge of the companies who made the tests

Q. Or of the companies? A. Yes, sir; Mr. Howard Constable did not have much of the two first tests made by this company.

Q. Not of the first two tests? A. We made those tests——

Q. But the point is that Howard Constable was supposed to represent the companies that made the test? A. On account of his familiarity with fire-proof construction.

Q. No, I don't ask you on what account, but that is the fact, is it not? A. Well, I can't answer that question yes or no. Mr. Constable was asked to supervise some of the tests for other parties.

Q. Well, no matter how it was. A. We considered that we knew our business well enough that we didn't need a consulting engineer to direct our construction.

Q. But still he came in on your side? A. Well, that was on a later test—after all these were completed.

Q. Well, he came in before the tests were completed? A. Only in the last one.

Q. That's all right; but I speak of the companies that were presenting their tests to the commissioners? A. Yes, so I understood it.

Q. How much money was spent in making these tests by your firm? A. The average cost, as near as I can recollect, was about between \$1,500 and \$2,000 each. We made three tests.

Q. Well, that would be between \$3,000 and \$4,500. Did the other companies also contribute? A. The other companies paid for their own tests.

Q. Well, it was in your test, especially the last one, that Howard Constable appeared? A. Yes, sir.

Q. Do you know what the other companies paid; do you know what the entire amount of expense was for this testing? A. That was very nearly the average cost of each test. I understand that one or two companies got their test through for \$1,200.

Q. Did you mean to say that \$3,000 to \$4,500 was the entire cost of all the tests? A. Of the three tests made for this company?

Q. By your company? A. Yes, sir.

Q. And it would be the same for each company? A. Well, most of the companies only made one test.

Q. And was your system and corresponding systems finally approved in the last days of Constable's administration? A. I believe so, but only the——

Q. Now, wait a moment. Do you understand my question? Is it not a fact that on or about December 27th of 1897 the objections of the Building Department to your system of construction were withdrawn? A. Yes, sir.

Q. Yes. And were they withdrawn as to other companies having your or some general concrete system? A. I understand so.

Q. Then you have it that as the result of tests made as you described, you finally convinced Constable or the department that your system was the proper system to be used in the buildings in New York city. Is that so? A. That in connection with a mandamus action which we had with the Building Department.

Q. Yes? A. The decision of Judge Smythe.

Q. Did the new Department of Buildings accept the tests and the results that were got under Constable's administration? A. I understand they are on record, but I don't know what relation or what opinion the new commissioner has about this.

Q. But you do know that you have not been allowed—that you were not allowed to do the work, don't you? You know you were not allowed to do it upon this Syndicate building, don't you? A. That was a decision in the former administration and before this action had been decided before Judge Smythe.

Q. No, but your contract was entirely in the present administration, the Syndicate contract, was it not? A. No, sir; it was in the last administration. That contract was made July 31, 1896. I understand the building is just about completed now, and completed with terra cotta. Our company has put in bids for the building of public schools.

Mr. Moss—I offer in evidence the printed specifications for the new public school, 174, issued by the Department of Education of the city of New York, Building Bureau; the school located at 123 to 135 Attorney street.

(Marked “Exhibit B. H. C. L.”)

Mr. Moss—I offer in evidence similar specifications for the new public school 171.

(Marked “Exhibit CC” H. C. L.)

Mr. Moss—I call attention to the fact that the first one of school 174 the bids were opened on March 2d. As to school 171, the bids were opened on March 9th, at 4 p. m., of this year. The specifications of 174 are dated February 14, 1899, and on the other school February 23, 1899.

Q. Give me the exact date, if you can, when your new corporation was formed? A. I can't give you that, but as near as I can recollect it was about the middle of January.

Q. May it not have been in February? A. It is possible.

Q. Of this year? A. Yes.

Q. It was then in the middle of January and possibly the former part of February when Mr. Croker and Mr. Hinckley came into your company? A. Well, the company was really organized about the first of the year, but the—I don't think that the articles of incorporation, or whatever they are called, were filed in Trenton until about the middle of January or a little later.

Q. Then you didn't get really down to business until the time that you have mentioned, did you? A. Well, you understand that we have been doing business under the John A. Roebling Sons' Company all the time.

Q. Yes. In Exhibit B, school 174, the earlier one of the specifications on page 17, is the specification for fireproofing. It is entitled “Fireproofing Terra Cotta Work.” That is not your system, is it? A. No, sir.



Mr. Moss—The specifications are found on pages 17 and 18, that fireproofing, and refer entirely to terra cotta work. There is no provision whatever for any other system.

Now I call attention to page 17 of Exhibit C for public school 171 and which is entitled "Fireproofing Terra Cotta Work," and on page 18 there is found these words: "The contractor, subject to the approval of the Department of Buildings, has the privilege of using the Roebling system of fire-proof floor construction in place of the 6-inch and other terra cotta floor construction hereinbefore specified." That let your company in for bids on public school buildings, did it not? A. Yes, sir.

Q. And before that time there was no chance to get in, was there? Answer the question yes or no. A. I can't answer it that way—because there is—there were a number of buildings, and I know that at one time——

Mr. Mazet—Well, Mr. Himmelwright, I think you can answer that without giving any long explanation; if you want to give an explanation——

Mr. Moss (interrupting)—If you don't know, say "I don't know."

Witness—Well, that would not be strictly the facts.

(Question read.)

Mr. Moss—What was the date of that specification? A. The date of the specification was February 23d.

(Question read again.)

Witness—No, sir.

Q. There was no chance to make a bid on a public school before the formation of the new corporation in which Mr. Croker and Mr. Hinckley entered, was there? A. Our construction——

Q. No; answer that question. You have already answered the other, and this is, in my judgment, hardly susceptible of a different answer. A. I would like to make a small explanation first, if I may be allowed to do so.

Q. No; answer the question first—as best you can. A. No.

Q. Now do you want to qualify that? A. Yes, sir.



Q. How? A. Our—a portion of our construction, consisting of a light steel and wire lath ceiling was specified in all these schools, and we were bidding on that right along and making an effort to have our construction——

Q. Yes, I understand that; but that was not what is understood to be the fire-proof work of a building, was it? A. A part of it.

Q. Only a minor part of it? A. Small part of it.

Q. Wasn't this specification, Exhibit C, which was opened March 9th—upon which the bids were opened March 9th, the first specifications in which your system was mentioned? A. I can't say.

Q. You don't know of any other, do you? A. If I had all the specifications I could tell; there was about——

Q. There they are, sir, five of them (handing witness papers). A. There was about eight or ten school buildings.

Q. There is every one of them since the date you have mentioned. I will hold the question and you can answer it a little later. A. In the first two or three buildings we were not specified and consequently we could not bid and catch part of the work.

Q. Why, you were left out of the bids? A. Yes, sir.

Q. Certainly. Is this an advertising book, or explanatory book of your system of construction (showing witness book)? A. Yes.

Q. You recognize that as having come from your office? A. It may have come from our office or from the Trenton office.

Q. Yes, but it is yours? A. Yes, sir.

Q. Now please open that book to the page giving the specifications for fire-proof floor construction; that is as you advertise it. Have you got that? A. I have one of them.

Q. What page? Let me see it? A. Page 22.

Q. Marked? (Looks at book.) Yes. Now I want to read the specifications issued by the department of the city of New York called the Department of Education, in February, for fireproofing, —and please to compare your advertisement there with these formal and legal specifications as I read them.

Mr. Mazet.—Pardon me one moment. This, as I understand, is a kind of prospectus of this company?

Mr. Moss.—Is a prospectus or advertisement.

The Witness (indicating book).—This is our catalogue, which shows different forms of construction, and the regular mixture and the manipulation of the concrete as put in commercially.

Q. Yes, it explains your work? A. Yes, exactly.

Q. With diagram and description, so that you can hand them to people who contemplate building, that they may pass judgment upon the advisability of using your system, is that right? A. Yes, sir.

Q. Now, please to watch that, and as I read from these formal official specifications sent down by the Building Department of the Board of Education, tell me when you find something different on your advertisement. "The wire centering," have you got that? A. Yes.

Q. "The wire centering shall consist of No. 22 four-warp, two-filling wire cloth stiffened with three-eighths to one-half inch steel rods woven into cloth at intervals of about nine inches." Is that all there? A. Yes.

Q. "The centering shall be sprung in between the I-beams in the form of an arch, with the ends of the rod abutting into the seat formed by the web and lower flange of the I-beams; the sheets to be well lapped and securely laced." Is that all there? A. Yes, sir.

Q. "On the wire centering so constructed cinder concrete, mixed in the proportion of one part of approved Portland cement"— A. (interrupting). "High-grade Portland cement," here.

Q. What? A. "High-grade Portland cement;"—"high grade."

Q. Yes, "high grade" is there. Then, that is one difference; they have compelled you to contract or to bid for high-grade Portland cement—all right. A. Our specifications say "high grade."

Q. Oh; why I didn't understand that; the bid, then, is not strong as the advertisement in that particular? A. Well, that is a matter of our opinion.

Q. Well, it is worth knowing that there are two words which are in your advertisement which are not in these printed specifications or—yes—“Portland cement to two and one-half parts of sharp sand and six parts of clean cinder, shall be laid, providing a thickness of not less than three inches at the crown of the arch, the concrete generally to be filled flush with the tops of the floor beams, leaving the floors ready for nailing sleepers.” All there? A. Yes, sir.

Q. The flooring to be subject to test at any points that may be designated by the architect. It shall in all cases develop a strength in thirty days equal to the capacity of the supporting iron work.” All right? A. Yes, sir.

Q. “Ceilings. The ceilings over all stories except cellars shall be flat”—— A. That is different here.

Q. That is different? It is different; well, just let me see that for a moment. (Looks at book.) In the specifications the words are “ceilings over all stories;” in the advertisement the words “all stories” are left blank, to be filled in. Yes? A. Yes.

Q. That is the only difference? A. Yes.

Q. “Except cellar, shall be flat, supporting rods or bars, spaced fifteen inches apart, and shall be securely fastened transversely to the under side of the I-beams by suitable iron clamps. In all spans over three feet six inches a five-sixteenth-inch steel rod shall be laid over and laced to the supporting rods or bars in the middle of the span. To this rod shall be attached supporting wires dropped from the crown of the floor arches at intervals not exceeding thirty-two inches. Painted wire lathing stiffened with a one-quarter inch steel rib woven in every seven and one-half inches shall be applied to the supporting rods or bars with the ribs crossing them at right angles, the ribs in the lathing to be securely laced to the supporting rods or bars at every intersection with No. 18 galvanized wire. All ceilings to be finished ready for plaster.” That is all right so far? A. All there.

Q. “Girders. All girders projecting through the ceilings shall be incased by painted wire lathing, stiffened with one-quarter inch solid rib woven in every seven and one-half inches. The

lathing to be rigidly supported by suitable iron furring, built out so as to offset the wire at least two inches from the girder. The space between the girder and the wire lathing to be filled solid with concrete, and the surface to be left ready for plaster." Have you got as the above provides or is that it? A. "Plaster" is the last word; one paragraph under "columns" is not in your—

Q. Yes, there were no columns in the specifications. Well, then, Mr. Himmelwright, there was nobody in New York that could bid for a concrete fireproofing except your particular company, was there, that you know of? A. I don't think there was. There may have been a clause in the specifications that other approved systems would be used, as there sometimes are.

Q. I will hand this to you so that you can find it for me by and by (handing book to witness). These plans, these specifications were just fitted for your plan of work, to your facilities, and to your ideas of construction, were they not? A. Yes, sir.

Q. But there are a number of companies in New York using a concrete system of fireproofing, are there not? A. Yes, sir.

Q. And large companies? A. I don't know the financial standing of many of them. I understand some of them are small.

Q. Well, some of them are large, are they not? A. I don't think so.

Q. None of them as large as yours, I suppose? A. I don't think so.

By Mr. Mazet:

Q. Any with more than \$50,000 capital stock? A. I don't know the capitalization.

By Mr. Moss:

Q. Well, do you mean to say that none of these companies that are competitors of yours have more than \$50,000 stock? A. I can't say anything about that at all.

Q. But very naturally, and I have no fault to find with you—you think your company is about the best company in this line, don't you? A. I do.



Q. It certainly is now, isn't it? (Laughter.) Well, I won't press it? A. Do you mean from merit.

Q. No, that was not a fair question. I will not put you in that position. Now, let us see. Do you know Mr. McCann here (indicating), Mr. Charles E. F. McCann? A. Yes, sir.

Q. He is a lawyer, is he not? A. Yes, sir.

Q. And an assistant district attorney of this county, is he not? A. So I understand.

Mr. Moss (to Mr. McCann)—Are you an assistant, Mr. McCann?

Mr. McCann—Deputy.

Mr. Moss—Deputy assistant. Does he spend some time in the office of your company? A. Very seldom.

Q. But occasionally? A. Comes down sometimes.

Q. Does he have professional relations with your company? A. Yes, sir.

Q. Of what kind? A. Mr. McCann, with Charles E. F. Johnson—at least Charles G. Johnson, I think, and others, are attorneys for the John A. Roebling Sons' Company.

Q. Then Mr. McCann is one of the attorneys for your company? A. For the John A. Roebling Sons' Company.

Q. For the John A. Roebling Sons' Company. That is the larger company? A. That is the large company.

Q. Now, are you sure about that—he represents the larger company, does he? A. Yes; I am quite sure of that.

Q. What is the capitalization of the large company? A. I don't know.

Q. Is it \$500,000—as much as that? A. I haven't any idea.

Q. But it is a larger company than this Buffalo Fire-proof Construction Company, is it not? A. An older company.

Q. An older company, and does more business, doesn't it? A. Yes, sir.



Q. Now, Mr. McCann is one of the attorneys for your company; he also is actively engaged in prosecuting matters in the district attorney's office, is he not? A. I am not familiar with Mr. McCann's duties; I do not know.

Q. But you do know that you can find him at the district attorney's office sometimes, if you want him, don't you? A. I understand he is there every day during certain hours.

Q. Yes; well, now, isn't Mr. McCann a nephew of Richard Croker? A. I am not sure as to that.

Q. You are not sure enough to say that he is not, are you? A. No; I would have to answer both questions the same way; I don't know positively.

Q. Is he a nephew of Mrs. Richard Croker, do you know that? A. I do not.

Mr. Mazet—Have you no information on the subject? A. I know from report; I understand that he is related, but I don't know what—

Mr. Moss—Yes; you know that there is an intimacy there, anyhow, don't you? A. Only from what I can see in the business relation—

Q. Exactly; you find that he is intimate with Mr. Frank Croker, don't you? A. Yes, sir.

Q. Is he not also intimate with Senator Grady? A. I think so.

Q. He is in Senator Grady's law office, isn't he? A. Yes, sir.

Q. You occasionally go out with Mr. McCann, don't you—go out into the street together to see folks together? A. I sometimes call at his office—

Q. At Broadway, 146? A. Yes, sir.

Q. You know, Mr. Himmelwright, that there is at present in the city a body called the Building Codes Commission, don't you? A. Yes, sir.

Q. And they are framing regulations which are to govern the operations of all builders in the future, are they not? A. So I understand.

Q. Yes; and your company is considerably interested in what these gentlemen shall decide upon as to rules applicable to buildings, are you not? A. Yes, sir.

Q. Do you know whether Mr. McCann sustains any relations to any members of that Building Commission? A. I do not.

Q. Have you seen him with any members of that commission? A. No, sir.

Q. Have you seen him with Mr. Fryer? A. No, sir.

Q. Do you know Mr. Fryer? A. Yes, sir.

Q. He is the leading spirit in that body, is he not? A. I don't think so.

Q. The most prominent man? A. I don't think so.

Q. Who is the most prominent man? A. Commissioner Grady.

Q. Mr. Fryer used to be, did he not; wasn't Fryer the man you used to go to? A. I don't understand the question.

Q. Well, he used to have another relation to buildings than that which he now has, did he not? A. Mr. Fryer has been on the board of examiners.

Q. He was considered the most prominent member of that body, was he not? A. I don't think so.

Q. Very well; that is a matter of opinion. Is that body still in existence? A. Yes, sir.

Q. Is Mr. Fryer in that board? A. Yes, sir; I think so.

Q. And he is also a member of the Building Codes Commission? A. Yes, sir.

Q. Now, Mr. Himmelwright, it would be natural for you would it not, to endeavor as well as you could properly and honorably to keep other people out of competition with you in the fireproofing business; that would be your natural interest, would it not? A. That would be our financial interest.

Mr. Moss—I will ask you a direct question. Have you not gone with Mr. McCann to individuals in this city to ask them to employ Mr. McCann as their attorney before the Building Codes Commission, for the purpose of endeavoring to get the regulations so framed as to permit their business to be done? A. No, sir.

Q. Have you gone to anybody to bring about a meeting between any person and Mr. McCann? A. Yes, sir.

Q. Have you gone to any person to bring about a meeting between them and Mr. Croker?

Dr. O'Sullivan—Which Mr. Croker?

Mr. Moss—Mr. Frank Croker. A. I don't think so.

Q. Whom have you gone to secure a meeting with Mr. McCann? Give me the names of the persons. A. I have called on Mr. Watson, the manager of the Expanded Metal Company, a fireproofing concern.

Q. Who else have you gone to? A. I called on Mr. Wright, of the Columbian Fireproofing Company, 156 Fifth avenue.

Q. What other persons? A. I think those are the only two.

Q. Are these the only two—well if you say so, all right; when did you call on Mr. Watson? A. Well, I called on him several times; I don't recall the dates; I think in March.

Q. Has his system of fireproofing been used in any buildings in New York that you know of? A. Yes, sir; the Mills House No. 1; in the Clark residence; I don't recall the location; it is up-town somewhere.

Q. Yes, anything else? A. I can't enumerate the buildings, but I am quite sure they have their construction in at least a dozen or fifteen places.

Q. Who told you to go to Mr. Watson? A. I think I called on him of my own accord.

Q. Well; I have asked if you had undertaken to bring about a meeting between him and Mr. McCann. I understood you to say "yes." Did you mean to say that it first occurred in your mind that there should be a meeting? A. I won't be sure about that; I don't think I mentioned Mr. McCann's name when I called on Mr. Watson.

Q. I don't ask you that. How did the idea come to you that you should go to a rival in business to bring about a meeting

between him and Mr. McCann? A. In a discussion or conversation with a number of members of our company, I think, that it was suggested, in the first place, that it would be a desirable thing to combine the various fireproofing interests in the city and to get some representation in the new building law——

Q. Yes——? A. We have made other attempts before now, one or two years ago, in which all these different interests got together trying to get representation on the building law.

Q. Now, who suggested that? A. I don't recall who did it.

Q. Wasn't it Mr. Croker? A. I don't think so.

Q. What will you say; will you swear that it was not Mr. Croker? A. I won't swear either way, because I don't know.

Q. Well, if you don't know who it was, how can you say that any particular person put the idea in your head. Now, you went to see Mr. Watson; you didn't go of your own accord; you went because matters had been discussed? A. Matters were discussed, and I was one of the persons that discussed them. It may be possible that the whole idea of getting in these other people, that is, may have originated by myself. I can't tell that; it was in a conversation.

Q. Are you a stockholder? A. No, sir; but I am consulted in regard to those matters.

Q. Consulted with regard to forming a trust or combination? A. This was not a trust or combination.

Q. A combination to secure legislative action. A. It was a concerted effort on the part of people who were unable to transact business in New York.

Q. Well, there was a lot of people then that were unable to transact business; that you concede? A. Ourselves included.

Q. And it required some kind of action? A. Exactly.

Q. To get past the city departments? A. No, sir; to get the building law so modified that we would be allowed to do business in New York city; the present building law allows only tile construction.

Q. Has not some one consulted with you about your going to see Watson? A. After I came back from the first conversation it was discussed again.



Q. With whom? A. I think Driggs and Croker were in the office at the time when it was taken up.

Q. Yes, they talked it over together. What did you say to Watson the first time? A. I cannot recall the conversation.

Q. When was it? A. I think some time in March, after that.

Q. What was the general import of what you said? A. The general import of the conversation was that the new building codes having been organized, or about to be organized, that it was desirable for some effort to be made by which the different fire-proofing companies other than tile would get some representation in the new building code, and we discussed the best way to secure that.

Q. The best way of reaching the Building Code Commission and influencing it to pass the legislation that would permit your companies to do business; that is right. A. Exactly.

Q. What else did you say to him? A. That was in general all that we spoke of.

Q. When did you first propose to him that he should meet Mr. McCann? A. I don't think I ever proposed that he should meet Mr. McCann.

Q. Why you have said that you went for the purpose of bringing about a meeting between him and Mr. McCann? A. You made me answer yes, or no, and I could not answer that question otherwise than that way. I went to see Mr. Watson to bring about these things and as a subsequent matter the decision or selection of the attorney might have been taken up; I don't think that I mentioned Mr. McCann's name, as I said before.

Q. You say you never mentioned Mr. McCann's name to him? A. I don't think so; to Watson—not in any of those first conversations; I might have later on.

Q. What did you tell Watson to do? A. We discussed the best methods of——

Q. No; excuse me. What did you tell him to do? A. I don't think that I told him to do anything except that it would be advisable to employ an attorney who was familiar with that sort of thing and who could get into these things.



Q. Exactly; and didn't you mention the talk between you and some attorney in person? A. Possibly later on, but not in the first meeting.

Q. Well I didn't limit you to that time? A. I think you did in the question.

Q. And who did you speak of; don't waste time? A. Well there may be several people—I am trying to answer your question correctly.

Q. All right, if you will; I don't object to your waiting. A. I think Senator Grady's name was mentioned.

Q. Exactly; yes? A. And I think Mr. McCann's name was mentioned.

Q. Has not Senator Grady always been considered the right man to go to in such matters, as the best man, the best lawyer to go to? A. I know that the Columbian people, the Columbian fire-proofing Company had retained him as their attorney; we never have.

Q. Was any sum mentioned in your hearing by either Mr. Watson or Mr. McCann at any time, or was any sum mentioned by you as a proper retainer to be paid for that work? A. Mr. Watson may have, and I think did ask me what it would probably cost.

Q. Yes? A. I told him I didn't know, and he pressed me to give him an idea, and I told him that any attorney who was competent to represent him and accomplish anything would probably be quite expensive, and I may have mentioned \$5,000 or \$10,000.

Q. Five thousand dollars or \$10,000 for an attorney to go and ask the Building Codes Commission to adopt certain regulations, and to ask it in a legal and orderly way, do you mean that? A. Well you understand that is my personal opinion.

Q. Exactly, I ask you, do you mean that? A. I didn't know anything about it, that was simply a guess.

Q. Which was it, \$5,000 or \$10,000? A. I think I mentioned, as I tell you—I think I stated the same practically, the words as I gave them to you.

Q. Five thousand dollars or \$10,000, that is it? A. Yes, sir.

Q. Do you know whether Mr. Watson and Mr. McCann came together on this business? A. They did; yes.

Q. Then he was the attorney that was mentioned in connection with the retainer, wasn't he? A. Well, he was mentioned later; yes, when the subject came up.

Q. Yes, exactly. Now then, we have it; that Mr. McCann, presumably nephew of Richard Croker, having a law office at 145 Broadway, being an attorney of the Roebling Company, and also a deputy assistant district attorney under Col. Asa Bird Gardiner—his services would be so valuable in presenting this engineering question to the Building Codes Commission, that the proper fee would be \$5,000 or \$10,000; is that right? Have I stated it correctly as I have gone along? A. That was my opinion of the possibility.

Q. How old is Mr. McCann, do you know? A. I don't know.

Q. Is he 30 years of age? A. Do you wish me to guess (looking at Mr. McCann), [Laughter.]

Q. Yes; from appearances? A. Possibly, about 30; I should say 28 or 30 years.

Q. Twenty-eight or thirty? A. Twenty-eight or thirty.

Q. Have you known of any large matters outside of the district attorneys office, that Mr. McCann has conducted as counsel? A. I don't know of them; there may have been.

Q. Yes; but you don't know of them? A. No.

Q. Then you did not in estimating the value of his services—you did not take into consideration any large matters in which he had demonstrated any particular ability as a counsel? A. Mr. McCann was retained by your company as counsel, and I judge possibly from our own retainer.

Q. Well, from your own, what? A. Retainer.

Mr. Mazet—Then——

By Mr. Moss:

Q. From your own retainer, what retainer? Have you paid Mr. McCann? A. I can't tell you, but——

Q. What sums has your company paid Mr. McCann within the last year? A. Our company has never paid Mr. McCann any money.

Q. Well, what retainer did he receive that you had in your mind? A. This was the John A. Roebling Sons' Company.

Q. Oh, yes; what retainer did the John A. Roebling Sons' Company pay; you said "our retainer," and so I used the same form?

A. Well, I used to conduct the business when it was under the John A. Roebling Sons' Company; I wish to make that explanation.

Q. Yes, what was the retainer that was in your mind; come, state that figure?

By Mr. Fallows:

Q. The witness says that he fixed the amount on the basis of the retainer that their company paid; therefore he must know what their company paid.

Mr. Moss—Of course.

The Witness—I don't know what they paid, but I have an idea.

Q. What was your idea; what is it? A. That it was—shall I give the amount?

Mr. Fallows—Yes; let us have this.

Mr. Mazet—Oh, answer promptly, Mr. Himmelwright; you are wasting a good deal of valuable time.

Witness—I think it was \$5,000.

By Mr. Moss:

Q. And when was that paid? A. I don't know as it was paid at all.

Q. Yes; I understand that, but when, in your mind, was it paid? A. Some time last—as near as I can remember—last year.

Q. Last year? A. Yes, sir.

Q. Did he then for the first time become the counsel or one of the counsel for the company? A. Yes, sir.

Q. Then that was his original retainer, and it was made some time last year; that is in 1898? A. I think so.

Q. Do you know whether Mr. McCann has added to his accomplishments in knowledge of the science of engineering? A. I don't think Mr. McCann pretends to be an engineer, or understands the technical parts of the——

Q. Of construction? A. Of the business.

Q. Yes? A. No, I don't think so.

Q. I don't suppose you do—the engineering that you wanted was of a different kind, was it? A. He used to be our counsel and attorney; that is John A. Roebling Sons' Company.

Q. Will you tell me what Mr. McCann did for the John A. Roebling Sons' Company, and for that retainer last year? A. We consulted him with regard to a number of matters, as I remember.

Q. What kind of business matters? A. Well, we filed a number of petitions to the Building Department.

Q. Petitions to the Building Department, for what? A. For the use of our construction.

Q. Yes; were they successful? A. In some cases.

Q. In some cases they were? A. Some cases they were denied.

Q. Yes; how many of these petitions were filed? A. I don't recollect the number.

Q. Were there half a dozen? A. I should think so.

Q. How much paper did a petition cover? A. I think the usual—the usual amount of reading matter would cover possibly six or eight pages type-written matter.

Q. Were they all type written? A. No; some of them were on printed blanks.

Q. Nothing very intricate about that, was there? A. Not as far as I know.

Q. What else did he do for the company? A. He was, of course, consulted in all legal matters, I understand.

Q. What legal matters—I know that, but what were they? A. Well, I couldn't enumerate them.



Q. How did you get him to the company's office—where did you send to him? A. We would telephone to him, when we wished him, at his office at 146 Broadway.

Q. Did you always find him down there? A. No, sir; he was at the district attorney's office until, I think, 4 o'clock each day.

Q. Yes; then you would find him until 4 o'clock at the district attorney's office, and after that at his own office, as I understand it, and whichever place you telephoned him he would come over to you? A. No; I don't think he was at liberty to come from the district attorney's office during those hours; we generally made an appointment when we called him up for a later time.

Q. Then let us see; you have a counsel to whom you pay a retainer of \$5,000, who is not at liberty to come to you until after 4 o'clock, because he is working for somebody else, is that it, do you mean that? A. You want me to answer yes or no?

Q. Yes, sir? A. I have to say——

Question read. A. Yes, sir.

Q. And working for a salary in one of the city departments? A. Yes, sir.

Q. Now, Mr. Himmelwright, have you in mind any serious and important matter in which Mr. McCann rendered legal service to your company last year? A. Yes; I have.

Q. What was it? A. Ever since the Building Codes Commission was considered or contemplated we have intended to have an attorney to represent us, to present our case properly before that commission, and it is possible that John A. Roebling Sons' Company retained Mr. McCann principally for that purpose. At that time, I am not sure.

Q. Yes; well, that is the matter of all matters which you have in mind, isn't it? A. Yes.

Q. All the rest is of minor concern. And it was to retain Mr. McCann for the same kind of service that you went to Mr. Watson, was it? A. I went to Mr. Watson to get his co-operation.

Q. And to retain Mr. McCann? A. That was a matter of his own preference; he might have selected——



Q. Yes; but you suggested it to him, didn't you A. Later on, I might.

Q. Now, what did you say? A. Our conversation was substantially the same as the conversation with Mr. Watson.

Q. And did it lead to your talking with him—did it lead to the coming together of Mr. Wright and Mr. McCann? A. Yes.

Q. What fee was mentioned for that company? A. I think I mentioned the same thing.

Q. Five thousand dollars or \$10,000 for that company? A. Yes, sir.

Q. Then in these three matters which come up to your recollection, there is this retainer of \$5,000; and there was the prospective retainer for the Expanded Metal Company, of \$5,000 or \$10,000; and the prospective retainer for the Columbian Company of \$5,000 or \$10,000, is that right? A. Yes, sir.

CHARLES E. F. McCANN, being duly sworn, testified as follows:

Examined by Mr. Moss:

My name is Charles E. F. McCann; my residence is 172 West Seventy-fifth street; I am a lawyer; I have a desk room in 146 Broadway, in the firm of Senator Grady, Smith & Crandall; not connected with the firm at all, simply have desk room there; I was admitted to the bar in June, I think, in '96; I think it is June or October; I am not sure which—three years.

Q. Are you related to Richard Croker? A. I refuse to answer that question.

Q. Why, that question does not tend to degrade or incriminate you, does it? A. If that is for the purpose of public investigation, or framing any laws, that question is material, I will answer it.

Q. Oh, I will let your answer stay just where it is. Will you swear that you are not a relative to Mr. Croker, either by blood or by marriage? A. I refuse to answer the question, Mr. Moss.

Q. You refuse to answer the question on the ground that it is not pertinent to the investigation? A. I presume it is my—

Q. I refer that to the chairman? A. Yes, I refer that to the chairman; my relation with framing any law——

Mr. Mazet—I think it is material to the line of investigation that has been indicated this morning in view of what has been testified here as to Mr. Croker's son being connected with the company to which you are counsel. A. Mr. Croker's son can be brought here at any time.

Q. I think you should answer the question? A. All right; I shall answer yes.

Q. I won't ask you what it is, I simply—— A. I am perfectly willing to tell you, nephew.

Q. You are acquainted with Frank Croker, one of the incorporators or stockholders of the Roebling Company, are you not? A. Yes, sir.

Q. Are you counsel for that company? A. No, sir.

Q. Are you counsel for any Roebling Company? A. I am counsel now for the Roebling Sons' Company of Trenton, N. J., here in New York.

Q. And for what other corporations are you counsel? A. I am counsel for no other corporations.

Q. No other corporations; for what other business companies are you counsel? A. Well, as I cannot see—is it important that I should disclose whatever clients I have.

Q. Oh, not at all, I am only asking for business companies in a general way? A. Well, that would be a client; and I don't think—I refuse to answer that question.

Q. Very well, I will let that stand for the present. A. If it is, if the chairman thinks it material I am perfectly willing to answer it.

Q. Let that stand for the present; are you also assistant district attorney? A. No, sir.

Q. A deputy assistant? A. Yes, sir.

Q. How long have you been such? A. Since the 1st of January, 1898; I think that's the year.

Q. Are you engaged every day in your duties there? A. My trial work entirely.

Q. Do you conduct trials? A. Every day.

Q. In what parts? A. Well, we have transferred—assigned to different places each month, to Special Sessions, and in its various parts of the Courts of General Sessions.

Q. Do your labors end at 4 o'clock? A. Well, that varies; I am generally there from 9.30 until 4; court closes then, and we do the trial work, our work generally closes at that time; but when we are assigned to the preparation of cases, as often our assignments may be, it runs later than that.

Q. How late? A. Oh, well, that is indefinite; I couldn't say.

Q. Then when you are trying cases you consider that your work is done when the case is heard and the court is closed, do you? A. Not in all cases, because—you have been there, and probably witnessed five and six and sometimes eight cases per day disposed of in those parts.

Q. I know that, but answer; the question is a simple one. You consider your work done when you are trying a case at the time of the adjournment of the court? A. No, on a continued case the courts hold over from day to day, and when it is necessary to get your witnesses for the following day, and go over the matter and familiarize yourself with the facts, we very often do not get away until seven and eight at night.

Q. Yes, I know that; but supposing that the last case on the calendar, and court adjourned at 4 o'clock, as the usual time, you are then free to go to your office and attend to your private matters, are you not? A. Well, no; in this way. We generally, as a rule, have a case here for the following day, and read them over and be familiar with the facts of the case, so that we can go to trials next morning, we know what is to be presented. How that may—I very often stay in the district attorney's office and attend to my work there, or I have either taken it down town, or I have taken it home.

Q. You have heard the testimony of Mr. Himmelwright as to your being brought into contact with Mr. Watson, do you re-

member it? A. Yes, I have had an interview with Mr. Watson, I think; I don't know his name.

Q. Where did you meet? A. (Continuing) people by name.

Q. Where did you meet Mr. Watson? A. Well, now, I am not sure whether it was Watson or not. I don't recollect, not the——

Q. Well, some gentleman of the Expanded Metal Company? A. I don't know as to just what companies they represented. I don't know that.

Q. Where did you meet this man? A. I met representatives of some of the fireproofing interests, once, I think, or I think at the office of the Roebling Construction Company.

Q. I think that is where they went to meet you? A. I don't know how they got there. I was sent for to go over there, and when I got there found this gentleman, on one or two of the occasions, was present at the time.

Q. Yes; who sent for you to come? A. I think I received a telephone message from, I think, the Roebling Company.

Q. Who did you meet there of your own company? A. Well, I met, I think, Himmelwright and Mr. Briggs, and I think Mr. Croker was present.

Q. So that you were present there discussing this particular matter? A. Well, this matter before I had heard anything about it had been discussed, I believe, and threshed out very fully by the companies themselves.

Q. Yes; now you tell us what proposition was made to you, and what proposition you made, and what was the business of the meeting? A. Well, as near as I can understand——

Q. No; as near as you can recollect? A. Oh, yes; I shall—at that meeting, as I say, those fireproofing interests, as the Columbian and the Roebling and others that have the same form of construction, have, under the law, had some difficulty in getting a construction on the law as to what other equally good fire-proof material is. Under the charter one of the sections there covering the buildings of New York city, it reads as “terra cotta or some other equally good material.”



Q. Wasn't the purpose of the meeting the getting of your services to go before the Building Codes Commission? A. Well, the purpose of the meeting was this——

Q. Can't you answer the question yes or no? A. No; I can't answer that yes or no, very well.

Q. Go ahead? A. The purpose of that meeting was that these companies had decided that now that a law was to be framed—I believe that it was tried once before in Albany——

Q. Never mind that, that is immaterial. A. Well, they tried to get together to get an opportunity of showing the merit of their system and come in New York city and do fireproofing work along with the tile that had a monopoly of the business here in the city, that was their idea. They thought as long as they all had a common interest that working for the same object they would come together to handle that one thing and get somebody to appear for them. I went over there and had some conversation with the representatives of the company. We talked in a general way on what the idea was in framing a law, what they thought could be done, and asked my opinion on various things; I told them that at that time I did not intend to handle such a matter as I felt rather a young man to do that, and I thought that I said if they got together, and got together before this commission and proved the merit of their system, appearing before them as they had demanded public hearing, and present such data as they thought competent and in favor of their system that I thought they would receive consideration. They wanted to know if—what the attitude of the commission—that is a thing I was unable to tell them—what we could gain, or anything else; I didn't know; it was entirely a speculation; if we could get in at all, all well and good, and if we didn't we would have to do as we have done right along.

By Mr. Mazet:

Q. You say they asked you what the attitude of the commission was? A. They wanted to know if I knew how any of the members of the commission stood. I told them that is a thing I could not tell them.



By Mr. Moss:

Q. Well the amount of your fee was mentioned at that meeting? A. We had a discussion, just a summary discussion, as to what services would be worth.

Q. Well, how much was named? A. Well, it was made on a sort of——

Q. Never mind how much you say? A. That is a matter I think would be a sort of confidential communication, Mr. Moss

Q. That is a confidential communication? A. I should say it was. I was perfectly willing to answer it, but I don't think I should have people come to me in a matter like that—as far as I am concerned I don't care one bit.

Q. But it was you that suggested it? A. No, it was not, as Mr. Himmelwright has stated to you, on former occasions they had talked over, I believe between them, what a thing like that might cost to get a lawyer.

Q. That is simply your belief, but do you mean to say that you, called in as possibly the attorney in the matter, naming your own price? A. I have no——

Q. That that is a confidential communication? A. Well, as I say in these cases, yes, it is preliminary to a retainer; I never——

Q. What confidence of your clients is it? A. Well, I don't——

Q. He was not your client? A. He was not yet; the Roeblings were my clients at that time.

Q. Now, don't let us spar about it, what was the amount? A. No, I don't want to spar, Mr. Moss.

Q. What was the amount? A. No amount was agreed by name, but I believe they agreed roughly to it.

Q. In a rough way? A. I think it—at that time Mr. Himmelwright was present at the time, and I think it was \$5,000 or \$10,000, something like that, I am not sure.

Q. Now, is a matter of \$5,000 or \$10,000 of so little consequence to you that you don't know which it was? A. Oh, no; not that—if we had got down to a final determination, or order to go ahead with this matter.

Q. But you don't recollect whether you said \$5,000 or \$10,000 that you mentioned; now which was it? A. Now Mr. Moss, let me explain; that part at that meeting was not considered at all of any importance; the first thing was to be considered whether this law could be changed, and whether these people could come in under that; that was the main thing.

Q. You don't mean to say that your professional training has made you consider a fee the least important matter in a prospective business engagement, do you? (Laughter.) A. Well, in this sense, that if I thought I could accomplish anything that is conforming to this law I should certainly have considered it a very important thing; but at that time I had looked into the law, and I intended to consult with men who were my superiors in constitutional questions, and at that time I had not done so.

Q. What constitutional questions are involved in a consideration of a fireproof construction plan? A. Well, as I say, the question might come up whether this system would infringe or would be termed a patent system in any sense of the law. Now I believe there is some provisions—

Q. (Interrupting.) Even so, what constitutional question is involved in it? A. Well, I mean in incorporating in that law any provisions which, as I say, could afterwards come in and have them stricken out, that is all. Constitutional questions in the sense—

Q. You thought there might be a constitutional question which would arise? A. Well, a constructive—construction of the law, if you want to put it in that way.

Q. No, I don't want to put it, you phrase it. What was this question that was troubling you that was worth \$5,000 or \$10,000? A. Whether these systems as they made their construction at the present time could be specified in the law, and that the law specifying them would be a legal law. Now I believe some idea—in looking at the matter that this authority was given to this commission to draw up a law which will not only cover fireproofing interests, but will cover every kind of building material there may be put in here in the city.

Q. You were considering then the great constitutional question that was involved? A. I don't lay stress——

Q. (continuing). More than the engineering question? A. I don't lay great stress on that. I lay stress on the merits, as they had promised to confer with me at such time when we had seen what could be accomplished; if we got this supply of engineering views and experts that were necessary, and that they would then place in my possession, and such other counsel as I might retain, full possession of the merits of their system so that at the time we went before the commission we could answer such questions as would be proper.

WILLIAM B. TUBBY, being duly sworn, testified as follows:

Examined by Mr. Moss:

My address is 81 Fulton street, New York; I am an architect; I was the architect for some buildings recently, that is, within about a year past, where there was some difficulty about the fire-proofing work; it was an addition to the Brooklyn Warehouse and Storage Company; the question was purely one of the material difficulties in the Building Department; the question of simply passing the Building Department; I was employed by my clients, that is, the Brooklyn Warehouse and Storage Company; we got estimates for the fire-proof work, and we did not at that time supply any material of this kind; there were, I think, four bidders, if I am not mistaken; Roebling, the Expanded Metal Company, the Manhattan, and Columbian, I believe; the Expanded Metal plan was disallowed; the Columbian was disallowed; I don't know that I made the application for the Columbian; I made application for the Expanded Metal, and that was disallowed; I made that application to the Brooklyn Building Department, that was the department of the borough of Brooklyn; the plans were filed in the ordinary way with the plan clerk; I saw some individual with reference to the rejection of the Expanded Metal Company's bid; I went there to see if I couldn't have it passed; I don't remember whom I saw; I was officially

connected with the department; I don't remember whether he was—there are several men there that have charge of it, and I don't remember just what it was—I asked him why it couldn't be passed; he said it was not allowed by law; I don't know that he advised anything so far as that special question is concerned; he told me that he could not approve it; I asked him, "What am I going to do"? He spoke of one system that could be used, the Roebling.

Q. Did this official in the department, turning down the Expanded Metal Company plan, tell you that the Roebling system could be used? A. Yes.

Q. That was in Brooklyn? A. Yes.

Q. And in the Department of Buildings? A. In the Department of Buildings, yes.

Q. What was his exact words, what did he say? A. I don't think I remember as far as——

Q. Didn't he say, "Why take the Roebling system"? A. That I don't remember, Mr.——

Q. Wasn't it to that effect? A. It was to that effect, yes; there is very little if any difference between the Roebling system and the Expanded Metal system in point of merit; I was going there to ask for the Expanded Metal system, and I believed in it; to all intents and purposes it is essentially the same thing; it is just as strong, so far as I know.

Q. Just as durable? A. I presume so; I have never used it in a building, so I cannot, of course, speak from actual experience.

Q. You knew that the Expanded Metal system is used by the government at Washington, don't you? A. Well, I don't know as it is in Washington particularly; it has been used by the national government, yes.

Q. By the national government, you know that it has been used in other cities than New York, don't you? A. Yes, sir.

Q. You know it is used in Buffalo, don't you? A. I don't know especially there, no.

Q. You know it is used in Pennsylvania? A. I know it is used generally throughout the country.



Q. Generally throughout the country? A. Yes, sir.

Q. And right here in New York it can't get in? A. No.

Q. And it is not a question of merit, is it? A. That is I hardly think it is.

Q. In your judgment? A. No; I am used to these questions; I am an architect; I have to plan buildings, to determine their cost, economy, strength, and durability; I have been in practice since 1884.

Q. And you have made the plans of large extensive buildings, have you not—just name some of the large ones? A. Well this is one of the largest, was this building I have spoken of in Brooklyn; that was erected in 1894, and the Wool Exchange, Market and Fulton bank building, the buildings of the Wallabout market, the Pratt Institute building, and a number of others, I can't—

Q. That will do; and this particular building was one that you expected some strain to be put upon? A. Warehouse building, yes, sir; and I had made my plans with reference to that, and there was no doubt in my mind that the system was perfectly applicable to the situation, and to the requirements; I know of no reason whatever why there should be any distinction made between the Roebling system on the one side, the Columbian system, the Expanded Metal system, and these other systems of concrete fireproofings; there are many cases where this system is preferable to the terra cotta brick system; it is cheaper; it is lighter.

Q. And fully as durable? A. That point I ain't quite so sure about; I have seen the specifications of the Roebling Company, I mean their advertising circular; I have seen them as they have been sent.

Q. You know these fire tests, and weight tests that are mentioned there? A. I don't know, I have no especial familiarity with those particular ones.

Q. Would the Columbian system and the Expanded Metal system in your judgment from your experience stand the same test that the Roebling system would stand? A. My impression is



they would, although I cannot speak authoritatively upon that subject.

Q. But from your judgment and your experience? A. Yes, that is my impression.

Q. Do you know that these systems were passed on or about the 27th of December, 1897? A. Passed in what way?

Q. Excuse me—by the Department of Buildings in the city of New York, of which Mr. Constable was the head? A. I know that we have never been able to use them.

Q. Yes, but did you get them passed at that time? A. No, we did not use them.

Q. Well, they were passed? A. No, we did not pass in that particular building that I am speaking of.

Q. No, but they were adopted as an allowable method of construction, were they not, on or about the 27th of December? A. That I don't know, because my own experience only came in contact with this one building.

Dr. O'Sullivan—Will I be permitted to ask a few questions?

Mr. Mazet—In relation to what?

Dr. O'Sullivan—In relation to the merits of these two companies and their products—I just ask for information, I see now where the turn of this investigation is going at this stage, and it seems to be against the Building Department. I would like to ask a few questions so as to throw a little more light, so if this man has any direct knowledge on the merits of these two products, and whether he testifies of his own knowledge, and what knowledge he has.

Mr. Mazet—Well, he has stated already substantially that he has been an architect for fifteen years, and in regard to the question of the respective merits did not testify positively, as I understand it, but stated that it was his impression.

Q. Is that correct? A. That is correct, Mr. Chairman.

Dr. O'Sullivan—If he has any positive knowledge, if he ever witnessed any test, and what the results of such tests were.

Mr. Mazet—We will allow you to ask that question.

By Mr. O'Sullivan:

Q. Have you ever been present at any tests of these respective products? A. No, I have not.

Q. Do you know anything about any tests or the data that was taken of any tests? A. I have had statements of these tests sent to the office.

Q. By whom? A. By the representatives of the different companies.

Q. Do you know if these were authorized statements by any of those who were to pass upon the merits of the test, or whether they were simply inflated statements of people who wished to advertise their wares? A. My impression was that they were all tests that had been made by some person in authority, although——

Q. But do you know of your own knowledge—don't know anything about the merits of these tests? A. No, I do not.

Q. Of your own knowledge you don't know anything of the merits of the products? A. No, except——

Q. Will you tell me a single building where the government has employed this metal product that you allude to; one single—— A. My impression is that they employ it in one building in the Navy Yard in Brooklyn.

Q. Do you know that to be so, sir? A. I don't know that positively; no, sir.

Q. Do you know anything about the relative expense of these two products? A. Well, in this building of which I have spoken the prices varied.

Q. Mr. Tubby, I think you can give me a more direct answer than—I ask you——

Mr. Mazet—Allow him to proceed, Mr. O'Sullivan.

The Witness—As I say, the amount of material that was in this particular building of which I speak, varied. The last bid I think which we had was from the Expanded Metal Company, and without the figures before me my impression is that it was

in the neighborhood of \$8,500; the price ran from that amount up to \$10,500.

Q. Yes, now which of the two products do you regard as the less expensive? A. The bid that we received of \$8,500 was from the Expanded Metal Company.

Q. Then that was the cheaper metal? A. That was the cheaper bid.

Q. When the official in the Building Department recommended the Roebling product to you do you know whether he was recommending the best of these two? A. I don't know.

MERRILL WATSON, being duly sworn, testified as follows:

Examined by Mr. Moss:

I live at East Orange, N. J.; I am connected with the Expanded Metal Company; the proper title of that company is New York Expanded Metal Company.

Q. Your name has been mentioned by some of the witnesses here, as having been a party to a conversation began first by Mr. Himmelwright, and continued by McCann. Do you recollect any such meetings or conversations? A. Yes, sir, I first saw Mr. Himmelwright in a restaurant on Park Place; I can't recollect the date; either early in March or late in February; he said that he had been delegated to find out for me whether our company wanted to have our construction recognized in the new law, then being formed by the Building Codes Committee; I said of course we wanted the law so formed that our construction would be legal and it would be used in the future, and that we hoped at the proper time to appear by witness or otherwise before this commission in our interests. He then said that some plans were being made with that end in view, and if we were prepared to say that we wanted our material recognized he would introduce me to a gentleman who could aid us in that matter. I told him that being a minority stockholder I could not answer the question personally, but that I would confer with those who were in control. He said he would like me to answer as soon as possible,

and I think the third or fourth day thereafter I notified him that I had consulted with and had conferred with the other parties and he desired us to find out what the plan of operation was; what his proposition was to lead to. And thereupon he asked me to come down to his office, fixing an hour, possibly a couple of hours later than the time we were then talking on the telephone. At probably half past one of that day I went to his office and asked him what this meant. Well, he says, "I will introduce you to a gentleman who will do the talking; I am not the person who can say what this would lead to." He said the gentleman was an attorney up on Broadway, located in Senator Grady's office. He called on the telephone and in the course of fifteen minutes Mr. McCann came into the rooms, and I was introduced to him by Mr. Himmelwright. I recognize Mr. McCann here; I first saw Mr. McCann in Mr. Himmelwright's office on Liberty street; only McCann and himself were present; Mr. McCann came in, and as I say, I was introduced to him, and after the introduction and a word or two of general chat, Mr. Himmelwright retired; Mr. McCann proceeded to state to me that he was the attorney for the Roebings, and was planning to aid their cause before the Building Codes Commission, and would like to know whether we would join in a general effort towards securing a law that would recognize the concrete systems of construction, they all being known in the trade as concrete systems, as against the accepted term terra cotta system. I said of course we were hoping to that end. He said he thought it was possible that it could be brought about, and he was then likely expected to appear in the interests of the Roebings, possibly the Columbian, and possibly the John W. Rapp system. He thought it would be wise to associate our system in the lot, as it was one of those recognized among three or four that were of the distinct concrete type. And I asked him what general thing was to be done; he said that the intention or expectation was that the law should be made a graded law, as he explained it; that is to say that certain systems would be made legal in all kinds, styles and heights of buildings; either system might be made legal in buildings limited to



100 feet in height and less. It was also hoped to extend the field of the operation of the law by enlarging what is known as the fire limit, within which any known fire-proof buildings may be erected. It was also intended to do away with wood construction in many directions. He talked probably fifteen or twenty minutes or more. I remained the listener, and finally I said "Well, what does this mean; what is it going to cost to have this all accomplished;" he asked me what I thought it was worth. I told him I had no price to put on any one's services who was talking to me as an attorney, and I was not putting a price upon other men's ability. And finally he said, "I presume you would want to at least go into the second class, namely, that your material would be legal in buildings up to 100 feet in height. And if you would be satisfied with that sort of a law he would suggest an amount of \$10,000 as a fee. If we wanted our material made legal in all buildings of any height the fee would of course be greater, but did not name the amount. He then asked me if I thought that was a satisfactory amount; I told him I couldn't say at all, it might be and it might not be. It would all depend upon how prosperous the business might be under the law, and that was entirely a matter of the future; I told him I could make no answer or agreement at all. And he said that the proposition was that unless the law was framed in a satisfactory way to us there would be no charge at all, that is no advance retainer, as I understand it—although he did not use just that language. I told him that I would have to consult with the others. We separated after three-quarters of an hour, possibly, and he said it was urgent that we get answer to the proposition promptly, as the Buildings Codes Commission was already organized, and was going to have public hearings within a day or two, and he wanted to appear there for as many clients as he might have when the time came. I think that public hearing was held on Monday or Tuesday following. I do not recall the exact day. I was present before the hearing, the latter part of it only. I was told that McCann had appeared as an attorney, but for whom I was not informed.



Mr. Moss—Right here will Mr. McCann state whom he appeared for at that hearing.

Mr. McCann—I just simply—that they call a public hearing at the chambers and asked what interests were coming before the Commission, and I at that time only appeared for the Roebings.

Mr. Moss—You made no other appearance?

Mr. McCann—No other appearance, simply set for, I think, for—I think it was on that point—that we asked some day to be set for a hearing, that was all that was said.

The Witness—During that week, and covering the next two or three days, I was inquired of how soon I could get in communication with the other associates.

Q. Who asked you? A. I think I only talked with Himmelwright, possibly once during the week with McCann, I can't state positively. And I said unfortunately that I was planning to go away the latter part of the week, and was not sure whether the principal member of our company, who lives in Pittsburg, could be here or not. On Thursday, I received advices—on Wednesday, I will correct that—that Mr. Chess, on account of other business, was coming down here and would be here Friday and Saturday. He came to meet Mr. Golding, the inventor of expanded metal, who had other business with him. They were both here on Friday, and on my notification to Mr. Himmelwright that they were in town an appointment was made for Friday afternoon at about 5 o'clock, the statement being made that as soon as Mr. McCann could be released from court—sometime about 5 Mr. McCann came to the hotel, the Astor House, where these two gentlemen were then stopping, and called at their room. I introduced him and remained probably about five minutes. He started a conversation along the line of the previous Saturday; and I had an engagement to meet another gentleman to take the train to Jersey, and I asked to be excused and retired. I know nothing further about the conversation that took place except what I was told by Chess and Golding on the following day. They told me that they had talked with Mr. McCann for almost

two hours. His conversation and his proposition was as they told me, a duplicate of that of the previous Saturday. They made no replies to his request or to his suggestion for his services, but told me that they asked him a number of questions and among others: "If you are the attorney for Roeblings, and their construction is already admitted under the present law, and having, like ours, been refused for years past under the present law, why is it necessary to have the law changed to admit us now." And that they got no response that they considered satisfactory. They separated after this hour or more without any definite appointment as far as they told me, and Mr. Golding left just before noon on the next day, and I left myself, the city at 2 o'clock, and Mr. Chess left a few hours later, and we have had no communications on the subject since then.

Q. Do you mean to say that the matter is still open whether you will employ McCann? A. We have not answered his proposition either way

Q. Have you been in consultation about it? A. Not with him or with anyone.

Q. I mean among yourselves? A. I have not seen Mr. Chess or Mr. Golding, nor has there any letters passed us on the subject. Mr. Chess is in Pittsburg; Mr. Golding's headquarters are in Chicago; he is about the country a good deal.

Q. How did you come to meet Mr. Himmelwright on the first occasion in a restaurant? A. He called me on the telephone, and asked me if I could take lunch with him. There was nothing said further than that I should take lunch with him. We had for several years been acquainted, and occasionally lunched together.

Q. I understood you to say that Mr. McCann told you that the intention was to make it a graded system? A. Yes, sir.

Q. Whose intention did he say it was? A. Well, I will not confirm the use of the word "intention"; it was the desire or plan on his part, I presume, as an attorney.

Q. That would put some of his clients down in a lower grade where they could only build fifty feet, some of them in a higher

grade, and some of them in a higher grade still. Did you understand that he put it that it was his intention to divide his clients up in that way? A. Well, he did not indicate that there was anyone in the matter besides himself.

Q. You are sure that he did not suggest that he was speaking for anyone else? A. I am quite sure that he did not suggest that matter, except himself.

Q. And as I understood you his compensation was not depending upon his ability as a lawyer, upon the time that he spent upon the work, but upon the position that the client himself would apply for in this graded system? A. Yes, sir.

Q. Am I right? A. That was my inference.

Q. So that if a client only had \$5,000 to spend necessarily in this plan he would go in one of the lower structures? A. Yes, sir.

Q. And if he had \$10,000 to spend then his system might go up to 100 feet? A. Yes, sir.

Q. It was not then a question of the relative merits of the system, but of the amount that the system would pay for counsel fees; am I right in understanding you so? A. We did not talk the question of the merits of the system. He didn't inquire into the merit of our system. He didn't ask whether there had been any tests.

Q. How did he come to suggest that you would go into the 100-foot class? A. I could not say, except presumption.

Q. It was not then upon any discussion of the relative merits of your system with some others, but entirely upon the supposition that you would pay \$10,000. Is that right? A. I should presume so.

Q. Well, was that the understanding between you on the conversation? A. There was no understanding, Mr. Moss; I simply say that was my inference.

Q. That was what you understood then? A. Yes, sir.

Q. But there is no doubt about the fact that he said that he supposed you would want to go into the 100-foot class, and that would be \$10,000? A. Yes, sir.

Q. In that conversation did you understand that you were arranging for the services of an attorney simply being paid \$10,000 for doing an attorney's services? A. Well, he was introduced to me as an attorney, and as an attorney connected or associated with Grady's office, and Grady's office had been known to be the valuable office to clients in the Building Departments for years, for at least for a year and a half past.

Q. Is that so to your own knowledge as a matter in the building trade? A. Not that I have had the services of anyone in that office, but it is a matter of common report.

Q. You speak of it being a matter of common report; you know that to be that it is a matter of common report? A. Yes, sir.

Q. That that was the office to go to? A. Yes, sir.

Q. And you looked upon McCann as an attache of Grady's office, did you? A. I did, yes.

Q. Is there any material difference between the system of fire-proof construction of your company and that of the Roebling Company? A. Only in the structural part of the work; that is to say the materials, or as fireproofing material are identical; the composition of cement, sand and cinders are identical, and we know of their employment whether in what is termed an arch of tension form or compression form varies; they have both styles of construction, and we have both styles. So that technically they vary slightly; as material they do not vary at all.

Q. Yes. Well, is there any practical difference in the availability, the strength and the safety of the two constructions? A. Well those are points that salesmen differ on. [Laughter.]

Q. But we are not talking as salesmen? A. I should not—I should say there is not any essential difference.

Q. How many of these concrete fireproofing companies are there in New York city? A. Well, I couldn't say how many, but there are at least four or five, who went to the expense of having their materials tested during the administration of Constable with the view to their adoption, several of whom have disappeared from the market, not having received any opportunity to do business.



Q. Well is it a fact that during the latter part of the administration of Constable these systems of concrete fireproofing were accepted? A. Yes, sir, in this way; that our tests were made in the spring of 1897, on the ground located at, I think Sixty-eighth street and Avenue A. The tests were all finished in the early part of that summer. During the summer there had been a mandamus suit commenced against the department by the Roebblings' Company, to have determined the question as to whether the commissioner had the right to approve these constructions of his own choice or whether it was necessary under the law to refer them to the board of examiners. That decision was handed down, I think, in August; possibly sooner, possibly a little later. Mr. Constable took no action until just before retiring from office; I talked with him myself on the subject and he said he had referred it to his attorney and upon his advices would act. About the 27th of December we received a notice through the mail that our construction, having passed a satisfactory test, would be considered legal under the present law, and that he would approve over any application in proper form for its use. There was only three days remaining of his administration and hence no time to make application.

Q. Well, were those tests and that decision recognized by the next administration under Brady? A. No, sir.

Q. Absolutely disregarded? A. In the sense that we have since then been disapproved, except in a few instances.

Q. Yes; then the money that you spent for your tests was lost, was it? A. Well it brought us some measure of satisfaction. [Laughter]. The capital stock of our company is \$50,000; we have no trouble in having your system of fireproofing passed in other cities than in New York, we have associated companies in all the principal cities of the United States and in all of them they approve with entire approval of the building departments of those cities. When I say our stock is \$50,000 that represents simply this local company. There are nine or ten associated companies all using that same system and building it into the buildings all over the United States; it is used in government buildings to some extent.



Q. Mr. Tubby spoke of the fireproofing on the Mills building—No, I think he said—Mills Hotel. Did you have a contract for that? A. Yes, sir.

Q. Was the work actually done? A. Yes, sir.

Q. In which administration was that? A. During the Constable administration.

Q. How was that allowed? A. By a technical oversight, I always explained it. [Laughter.] In this sense—that the architect who made application for it did not fill his blank when making it out, naming any particular construction, and simply said “fireproofing”—the sectional plans—while they did not name any construction showed we intended naming the expended metal construction. The plans were approved and the contract was let to us, and we begun the work. After having done probably twenty per cent. of the job we were notified that a violation had been filed upon the work. That violation remained for six weeks. The architect and his engineer and myself appeared before the board two or three times, it having been made a board matter, and finally Mr. Mills appeared in person by attorney before the board. They finally agreed to let the work proceed on condition that certain additional iron work should be put into the framing of the building, which was done, and then the work proceeded until the finish.

Q. Was that entirely completed under the Constable administration? A. Yes, sir.

Q. And who did the fireproofing for the second Mills Hotel? A. It was done by the general contractor, as far as the floors were concerned, he using hollow tile.

Q. What system was that? A. Well, it is as I say hollow tile system or terra cotta. The department refused to approve our construction for the second building, and Mr. Mills was obliged to use the hollow tile construction.

Q. Was that during the present administration or the last one? A. Well, I think it was during the fall of '97 that that occurred; fall and winter of '97-'98.

Q. Now may I ask you whose system is the hollow tile system? Who handles it and supplies it? A. Well, as a system it is nobody's specifically; hollow tile can be built by anyone having the clay and the capital.

Q. But practically who controls it? A. In New York it is generally understood that the Central Fireproofing Company is a corporation composing of but one or two of the smaller individual companies.

Q. Isn't that generally called the "Terra Trust?" A. Yes, sir.

Q. Or combination? A. That is a familiar name in the trade.

Q. And then this terra cotta combination of different companies joining as one has had, and has at the present time, a monopoly of fireproofing except as far as the Roebling Company has recently been admitted? Is that true? A. Yes, sir; we haven't had any application made in our behalf for some months.

Q. And there is practically no use for your company to operate fire-proof construction in the city of New York, is there? A. Architects say they do not like to get into snarls themselves, by asking for something that they will be refused on.

Q. Then there is discrimination against your kind of work, is there? A. I should call it so.

Q. But you had under consideration the spending of \$10,000 to be allowed to do work under the new Building Code; that is the long and the short of it, isn't it? A. Well, we did not have it under consideration.

Q. Why not? A. We were asked to take it under consideration.

Q. What do you mean by saying you did not have it under consideration? Didn't you actually consider it? A. Well, in the sense that we held a conversation, but as to anticipating that we would agree to it, my judgment is no.

Q. Why not; it is a practical proposition? A. Well, to make it briefly, we don't do business that way.

Q. And you mean to be understood to be a person who will not submit to demands of that kind, do you? A. We never have.

Q. And you mean to say that you didn't intend to? A. So far as I am concerned, no, sir.

By Dr. O'Sullivan:

Q. Mr. Watson, at the time that you spoke with this gentleman here, who represented the Roebling Company, did you understand that the Building Code Commission was about to sit and that the other fireproofing companies were getting together so as to present their claims before that commission? A. Well, I know of my own knowledge that they were about to sit.

Q. Yes, sir; and the other fireproofing corporations that had agreed to get together on this matter they wanted to have their joint desires presented by this young attorney? A. I knew nothing about the other companies at all.

Q. Didn't I understand you to say there was four or five? A. He mentioned the name of four or five.

Q. Yes? A. But I had not consulted them.

Q. And the fee that was spoken of was dependent on the degree of success before that commission? A. I assumed that to be the situation.

Q. Now in regard to the building laws, they vary in the different cities, and in the different states throughout the country? A. Of course.

Q. So that a product may pass satisfactorily in one community and be rejected justly under the laws in another? A. Yes, sir.

GEORGE S. HAYES, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am a civil engineer. My business address is 1123 Broadway. I graduated in '91, and have practiced civil engineering ever since. I am a member of The Tostevin-Hayes Fire-proof Construction Company. I had a petition before the board of buildings relating to a building that I wanted to do the fireproofing in at Forty-seventh street and Park avenue. The petition was refused; we petitioned twice, and was refused practically both times, and we

lost the work. I had a conversation with an official relating to the disapproval and rejection of that proposition. He was John Duner, the superintendent of buildings of the Borough of Manhattan. The conversation was in Mr. Duner's office. I can't give you that date. It was Friday after the Tuesday the first petition had been rejected. It was some time in August or September of last year. The first petition had not been rejected, but had been laid over for further information, and I went to Dooner and asked him what was the trouble; says I "We have already had one building, a library on One Hundredth street, which is exactly of similar construction, and that has been passed," and Dooner says, "Why, Hayes, we want some tests;" "Why," I said, "Mr. Dooner, we have made tests under Mr. Constable, and they are now a part of the record of the department, and I cannot say that we want to go to that expense, as we are proposing nothing new." "Why," Dooner says, "can't you see that I am not talking about tests." And I says, "Mr. Dooner, be frank," and Dooner says, "Well, young man, you go and see 'Con' Daly. He is the proper man to see, and if you agree upon terms you will be able to do lots of business and you will have no trouble." I thanked Mr. Dooner for being frank, and asked him for the address of Daly and when he could be found, and left the office and went back to our office and told Mr. Tostavin.

Q. Wait a moment—this "Con" Daly, was he an engineer?  
A. Well, I never met "Con" Daly.

Q. Well, you found out who he was, haven't you? A. He told me that he was a real estate man, up on Amsterdam avenue, real estate, and I believe he has a saloon up there. Well, I came back to the office; of course our company is an incorporated company, and I spoke to Mr. Tostevin simply as a business matter, and Mr. Tostevin said "I think I will go and see this man 'Con' Daly;" and I told him, says I, "so far as I am concerned, I don't want anything to do with it, and if you go up and if the petition comes up I don't want anything to do with it—you have got to do it very soon, because the petition comes up again next Tuesday"—this was on Friday. Tostevin went up and saw Daly, and



found out his terms, and came back saying he would talk with the company about it; but before he came back to see Daly again Tuesday had come around, the petition was refused, and I believe that Daly never was seen again by Mr. Tostevin. Anyway he decided to tell Brady, the commissioner of buildings, about the whole transaction. Mr. Tostevin then thought it would be best to tell Brady about the whole transaction, thinking that probably he did not know how his department was going. He saw Brady, and told him all about the whole transaction in regard to Sixty-seventh street. I mean to say that Mr. Tostevin informed Mr. Brady, the head of the Department of Buildings, of the proposition that Dooner had made and about Daly. And Mr. Brady told Tostevin that at that time he was very busy with election work, but as soon as election work became less he would investigate; if he found that Dooner was guilty, why, Dooner would have to leave the department. Now, Mr. Brady has done nothing in this matter at all. He has never asked me about it, not a bit. To find out if he intended to, a former client of ours, Mr. Bingham, who owns an apartment house at Seventy-fifth street and Riverside Drive, where he wished to use the same construction, came down and wanted to build another building—and I told Mr. Bingham of the character of the plan, and that we had been approached and refused to go into the game, and that before he asked for our construction in that building he had better see Brady, and of course we mentioned Daly's name, and he says "I know Daly and I will go and see him." That was Mr. Bingham; he is now at 5 East One Hundred and Sixteenth street, William H. and James, both of them, were there. Mr. Bingham went and saw Daly, and Daly says, "Tostevin-Hayes construction can't be used in New York, but you can use the Colonial construction. Now the Colonial construction is no construction, it is simply a copy of this one scheme we have upon East Ninety-fifth street, and is exactly the same—exactly the same as we proposed. That is the last we have heard of that particular case.

Q. Mr. Brady said that he was busy with election business;



what has the superintendent of buildings to do with election business that makes him busy? A. Well, you understand that Tostevin told me that.

Q. I understand, but is there any matter—— A. This was the time of the last state election, Roosevelt and Van Wyck.

Q. Yes, but I want to know, you are a builder, you understand these things. What is it that the Building Department has to do that makes him so busy round election time, do you know?

A. I don't know anything about that.

Q. Do you know of any building function that is mixed up with election matters properly? A. No.

Q. Is it not a fact, Mr. Hayes, that builders hardly know how to do business in New York city to-day on account of the exactions and the demands that are made upon them by officials?

A. In my own case I believe I spent a reasonable amount of time and certainly graduated from a recognized university of civil engineering, and before I came to New York had had considerable success, both financially and professionally, and I came to New York, and I must say that the last year and a half I have lost probably \$5,000, being able to do no business, and dropping those clients that I had obtained in former years; in fact, I am practically ruled out.

Q. It is not a question of ability then, is it? A. I hardly think so.

Q. But somehow or other you don't meet the requirement? A. I won't pay, is the reason.

Q. You won't pay? A. No.

Q. You have said that you have graduated as a civil engineer, and I think modestly you have stated your professional ability. Of course the plans that you make have to be subjected to the criticism of expert engineers in the Building Department? A. Expert engineers?

Q. Yes? A. There isn't an expert engineer in the Building Department. [Laughter.] That man Wilcox is a graduate of an agricultural school from Cornell, and represents a certain crowd there—no engineer whatever; absolutely incompetent.

Q. Mr. Ewing a good engineer? A. Ewing is only an ordinary draughtsman, and he could not positively assume the title of an engineer—he could not possibly assume the title of an engineer with the widest stretch of his imagination.

Q. Didn't Ewing graduate from some institution? A. Graduate? No. I doubt if he has got a common school education.

Q. Well, then, you know about this department; you have made efforts to get your plans passed and your work accepted, and there is some engineering ability there to which a man who knows his business may apply himself with confidence? A. Well, I wish you would find it; I wish you would find it.

Q. Do you mean to say that there is not intelligence and engineering ability there? A. I am very sure, very sure, that there is not a man connected with that department to-day that can stand an examination in civil engineering such as that the graduates of any technical school have got to pass before he obtains his degree. I am practically certain that there are no engineers in that Building Department to-day, for I have never known of any in there.

Q. Well, was not Mr. Ewing employed as an engineer; didn't he go into the department as an engineer? A. Why, Ewing went into the department and Ewing has told me—he said, "Hayes I am very sorry for you," but, he says, "I want you to understand that I don't countenance the things that I have to do. But I am earning more money here than I possibly could outside"—and I want to say in this connection that Ewing is a friend of mine, and I am not malicious in regard to him. And Ewing went into that department practically without an examination. He is supposed to be a civil service man, but he did not pass the examination because he could not. He simply said, "Constable turned round to the examiners and said, "Here I will vouch for this man;" and that is about all the examination he ever passed. Ewing could not pass an examination in engineering.

Q. How long have Ewing and Wilcox been the examining engineers in that department, as far as you know? A. Some three

or four years. They are both appointments under Constable, and retained by this administration.

Q. Therefore this administration puts its seal of approval on them anyhow? A. Well, Brady told Tostevin he would get rid of them if he could, but he could not; he wanted me to make charges against them, but I said "No."

Q. Why couldn't he get rid of them? A. Well, he said he kicked him and abused him, but he would stick, and he couldn't get rid of him; and he wanted me to make charges; and I says "I don't do anything of that kind?"

Q. Well, isn't it possible for the superintendent, the head of the department to discover whether or not his subordinates have the proper qualifications, and himself to make the charges against them necessary to their removals? A. I don't see how Brady is to judge of the qualifications of an engineer, not being one himself.

Q. Well, he could get engineers, couldn't he? A. I presume he could.

Q. No reason why the head of the department could not initiate proceedings to get rid of an incompetent subordinate, is there? A. I don't think there is.

Q. Now, why did he say he could not get rid of him? A. Why he said he had abused him, but he simply would not go; he said "He is a civil service man, and we can't drop him." He said he wanted to get rid of him, and suggested that I help.

Q. That will do.

Mr. Fallows—Just a moment, please. Are you going to bring out the facts of that deal by "Con." Daly with some other witness?

Mr. Moss—Yes.

Mr. O'Sullivan—May I be permitted to ask a couple of questions? I couldn't hear a large part of what you said, Mr. Hayes.

The Witness—Well, I am very hoarse.

Dr. O'Sullivan—Yes, I understand that, sir. The product that you offered to market, have you submitted it to any tests in either this or the preceding administration? A. Well, there has been

no tests in this administration; the tests were made under Constable. And I am the former expanded metal man, and our tests were those of the expanded metal.

Q. Yes? A. And in that way our material has been thoroughly tested. There is records in that department that cover our construction now.

A. And that was during Mr. Constable's regime? A. Yes.

Q. Three or four years ago? A. Why I think it was in '97. I am not sure of those dates.

Q. Early in '97? A. Well, I can't tell you the exact time.

Q. Now did Mr. Wilcox and Mr. Ewing have to pass on any matters relating to the tests that your product was submitted to?

A. Well, we never could find out who passed on it, or who had them, or whether they had any records there. Wilcox is the chief examining engineer, and Ewing, I believe, assumes the title of engineer expert.

Q. Well, after your products have passed examination and had passed the departments you were satisfied, were you not, that your product met with the approval of Messrs. Wilcox and Ewing? A. I don't know why; we never got the record; we never got anything that said our material was accepted by the department.

Q. Very well, we will simplify it, or rest in it; if they were incapable of approving of your product in 1897 how were they capable of disapproving of it. A. Well, I agree with you there, thoroughly; they are not capable of approving or disapproving.

Q. So then they are neutral in the matter? A. Well, yes.

Q. They have no power in any way to pass on the—— A. They have the power of engineers.

Q. Did they exercise that power in '97? A. I can't say whether they did or not.

Q. You know that they did not exercise it against you? A. I know in the case of Ewing when he said, "You are being abused, are being done up, and I am sorry for you."

Q. He said that in '97? A. I don't know when that was. I think it was later; probably '98.



Q. Yes. Then if I understand your testimony, Mr. Hayes, these two officials have changed their attitude during the two administrations towards you? A. Why, I don't see how you can infer——

Q. They were with you in the Strong administration and they are now against you? A. With me in the Strong administration. How?

Q. As I understand, you submitted your product to tests under their supervision? A. Yes, sir.

Q. And they approved of it? A. They never did anything; never had even a report.

Q. Weren't they expected to furnish a report? A. They were, but we never got it.

Q. How do you know now that they are reporting adversely? A. Why in connection with this Sixty-seventh street matter, I believe the records will show that Wilcox——

Q. (Interrupting.) Do you believe if these men were removed from the board that you would have any trouble in passing your produce? A. I think—I will answer that question this way—I think engineering structures should be superintended by engineers; and I think an engineer can appreciate the arguments of another engineer better than a man that cannot follow his argument?

Q. And any of those men engineers—— A. I think myself that there is no necessity of ever having a test on a concrete system. We have records in our engineering literature of the Dutch engineers showing that concrete fire brick is absolutely fireproof. And we know also from records of fires that terra cotta and those other constructions that they recognize as the standard do fail under intense heat. I do not think there is any necessity for making these tests.

Q. But as a matter of fact, Mr. Hayes, that is a mooted question, is it not? A. I should say it was, yes.

Q. There are people who present the merits of one system just as strongly as the people who present the merits of the other system? A. I presume so, yes.



Q. So that it is fairly a debatable question yet, as to whether your system or the terra cotta system is the best? A. Well, I would not agree on that proposition.

Q. Well, I mean it is open to debate? A. Oh, yes.

Q. There is room for honest difference of opinion on it? A. Hardly.

Q. Now you believe that the superintendent of the building department would have done you justice if it hadn't been for these two men, that were the men—— A. Nothing of the kind; haven't said anything of the kind.

Q. Didn't he complain that he couldn't get rid of them? A. Not to me; he simply said when he mentioned to Tostevin, mentioned this case—he simply told him the relations that Wilcox sustained to this Sixty-seventh street case—I think he made the remark that if Tostevin could have helped him get rid of that man he would do so. No statement on my part that he wanted to get rid of him.

Q. But he has to be guided by their opinion? A. I don't know.

Q. Isn't that what they are there for, Mr. Hayes; these men are supposed, sir, to be civil engineers, and competent, and yet they control his opinions, because his opinions have got to be passed on their—— A. Well, that is a hypothetical case; I don't think that works in actual practice.

Q. Well, then how did the complaint happen to arise against these men in which he said he would wish he could get rid of them? A. I think probably Tostevin dropped something in connection with Wilcox; I don't know how it happened to arise; I simply told you just one of the statements made by Mr. Tostevin.

Q. But it is a fact that these men approved of your product in one administration and disapproved of it in the other? A. I denied that before.

Q. Isn't that the fact though? A. I think not; and never having the record I can't tell whether they approved or not.

Q. Well, as a matter of fact was your product before the board in the Constable regime? A. Not that I know of.

Q. So that it has never been approved in New York city? A. Why on special buildings——

Q. Never by tests? A. And tests; the tests I am quite sure we have never heard of any proof of it—that is not in the way of reports.

Q. Then your product has never been approved for testing it in this city? A. So far as I know.

By Mr. Moss:

Q. But irrespective of Wilcox and Ewing, who are rather a small part of your story, it is a question of money, as you state?

A. A question of money, that is all.

WILLIAM P. TOSTEVIN, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am in business with Mr. Hayes, the gentleman who just preceded me on the stand; I heard what he said about Dooner's conversation with him; I went to see Mr. "Con" Daly about the matter which Mr. Hayes told of; I found him in his gin mill on Columbus avenue, 581, north west corner of Columbus avenue; and I don't know whether Sixty-sixth or Sixty-seventh street, somewhere; at any rate, 581 Columbus avenue I saw him September 19th at 11.30 o'clock. This is Daly's card, He gave me this card; I wrote the date upon it.

Q. I see on this card "September 19, 1896, 11.30 a. m."; is that right? A. Correct.

Mr. Moss—I offer the card in evidence.

Marked exhibit.

Q. Tell me about the conversation you had with Mr. Daly, Mr. Tostevin. A. Not knowing Mr. Daly, I walked into the saloon and there were two men behind the bar, both in their shirt sleeves. I inquired of the first one, and asked if Mr. Cornelius

Daly was in, he said, "Yes, this is the gentleman," pointing to the next man on his right; I walked over to the gentleman, and I said, "Is your name Mr. Cornelius Daly?" He said "It is," said he, "What can I do for you?" Without informing him of my name or my connection with any matter or of anything else, I said to him, "I have been referred to you by Mr. John Dooner, the superintendent of the department of buildings," he says "Oh, yes, yes, yes; can you excuse me for a minute;" I said "certainly," he put on his coat and it being, I presume, a Raines Law hotel—I didn't go upstairs to see, but from the character of the people I should judge it was—he busied himself with some people inquiring for rooms, and finally he came and he says "I am now at your service." I handed him this card (exhibiting card) as being a card of introduction, not stating whether my name was George P. Tostevin, George Hayes or anybody else. That is my business card. He says, "I am now at liberty to see you." He did not ask me the name, and he conducted me to one of those private compartments that saloons of that kind have, and he says, "Now, what can I do for you?" "Well," says I, "that is just what I have come here to see, as I told you, I have been referred to you by Mr. John Dooner, the superintendent of buildings." He then picked up the card and closely examined it, and he said "Oh yes, I see you are in the fire-proof construction business." Says I, "Yes." "Well," he says, "I suppose, then, it is in relation to obtaining the approval of the Department of Buildings to your system of construction?" Says I, "I guess that's right." We talked over some few minor matters. As you will notice that card is marked for description of arches, etc. I had a piece of paper in addition to that card which I have lost; but that I started in to describe the different systems of construction; that is that we asked—there are nine systems; we have nine systems of construction practically the same as was used by a former company, the Expanded Metal Fire-proof Construction Company of which I was manager and Mr. Hayes engineer. That business was succeeded by the New York Expanded Metal Company, they purchasing our interest, and the Tostevin-Hayes Construction Com-

pany was organized from that, and my position to-day is settling up the affairs of the Expanded Metal Company, under an arrangement made with its directors. And as the directors of the company or stockholders of the company did not desire to continue on in the business they made an arrangement with the Tostevin-Hayes Fire-proof Construction Company to take over whatever unfinished business the Expanded Metal Company had, together with whatever contracts that had been signed for or agreed upon and had not been commenced—and that is the history of the Tostevin-Hayes Fire-proof Construction Company.

Q. But you started into talk with this saloonkeeper about the engineering questions, as I understand? A. About the construction, yes, sir.

Q. You thought he might be an expert, after all, did you not? A. Well, I didn't consider him up much for an expert in the business I was in. Perhaps he might be an expert in another direction. We talked over the different construction, and he finally said to me, "Your construction is not approved by the Building Department, is it?" Says I, "No, it is not." "Well," he says, "What do you think it is worth to receive the approval of the Building Department for your system of construction?" I said, "I think that is a question you had better answer yourself. There might be a difference of opinion between us in regard to values." He thought it over a few minutes, and he said, "Your company is an incorporated company, is it?" I said, "Yes." He said, "The stock is full paid in?" I said, "Yes." Said he, "Give me \$2,000 of the stock of your company." Says I, "There are only fifty shares. Do you want all of it? I don't think we can agree on that, Mr. Daly." He says, "What is the matter of increasing the capital stock of the company \$5,000?" Well, said I, "That is plausible." Said I, "What are we going to do then?" He said, "Give me \$2,000 worth of stock, make me a director of your company, and we will locate the balance, the \$3,000 by selling it at a price that may be agreed upon, and we will turn it into the treasury at a price that may be agreed upon, or we will divide among the stockholders." Said I, "No, I don't see how we can



increase the capital stock of our company and give you \$2,000 without we subscribe for \$5,000 and pay in, under the laws of the State of New York, full value cash. We have no patent rights or any privileges, so to speak, that I see that we could issue \$2,000 worth of stock to you, fully paid up for some value received, or something of that kind; known as treasury stock, possibly; I don't see how we can do that." "At any rate," said he, "Mr. Tostevin, I'll tell you what you do now. You go home and see your company and consult with them and meet me any time you say, by previous notice, either at my place of business along about this time every day, or after, say, 2 o'clock or 3 o'clock, on the Exchange, 59 Liberty street," I think it is. Well, I dropped him. I never saw him after that. Yes, I have seen him again. That is, I visited the saloon so as to be familiar with my man, that is all. But I never spoke to him, never brought the subject before him. I saw Mr. Brady about that transaction.

Q. When was it you saw Mr. Brady? A. I didn't see Mr. Brady, and didn't go to see Mr. Brady of my own free will and accord.

Q. But you happened to see him? A. Yes, sir, I happened to see him.

By relating the circumstances in connection with one of the petitions that Mr. Hayes had filed before the board of examiners for the use of our construction in a building which was rejected. One of the members of the board of examiners, whom I considered a personal friend of mine, told us a few days after the meeting of the board, that they had acted favorably upon a petition that we had presented, and I said, "Yes, where the chicken got it," in that way.

Q. That is, in the neck? A. In the neck, yes, sir. Used a little slang. The committee will pardon me. He laughed. He says, "Mr. Tostevin, you are mistaken." "Well," says I, "I tell you what I will do with you. I will bet you a good dinner what I say is so. If I lose I give the dinner. If you lose, I want you to give the dinner." He says, "Agreed." I related to him then the history in connection with my interview with Daly, together



with the result of his statement that the board had passed—that they had not—that they had refused it, and we went to the Department of Buildings together. We overhauled the records and the Sixty-seventh street and Madison avenue building, we found that the endorsement on the petition—or that was to have been presented to the board of examiners, but which never reached them, mind you. There was this endorsement. “The information herein contained is too indefinite for the board of examiners to take action on.” Now, says I, “What does this mean?” The initial was under that—a “W.” I and my friend Mr. Dobbs were looking at it. Mr. Dobbs says, “Well, you see, Mr. Tostevin, that that matter never reached us.” Said I, “What in the Dickens—that is what your office said; or Mr. Cable appeared before the board—Mr. Hayes filed the petition on the Friday previous to the 19th day of September. His conversation with Dooner took place after the filing of the petition on the 17th day of September. Mr. Cable, the architect, was present the following Tuesday, which would be the 20th or 21st, whatever it is. The following Tuesday Mr. Cable was present at the board of examiners to appear at a hearing that was given to all matters referred to the board. After waiting there some time, some one asked them the nature of their business. They informed them, and the clerk informed them that that matter was not before the board. They stated it had been filed and should have been before the board and been acted upon, and that is where I came in, and proved to Mr. Dobbs that some one in the office other than the board of examiners, Commissioner Brady, or the superintendent of buildings had taken the authority, or elected to pass judgment on that petition in regard to whether it was definite enough or not. In looking over further on the files we found that a tracing was missing. That tracing showed the detail of construction. In looking again we found that there was a question asked of the architect, which is customary, of what composition is the concrete. That question had not been answered. I went back to the office and satisfied Mr. Dobbs that he had lost the dinner, as far as that was concerned, and went back to the office and reported then

to Mr. Hayes. Mr. Hayes said that he had filed a tracing and to the best of his knowledge and belief every question that could be necessary had been answered. Mr. Cable, the architect, came in the office and talked the matter over; and it was decided that we again petition the Department of Buildings, but in the meantime the delay in regard to the passing of the plans, the delay in regard to the hearing before the board of examiners, and the possible delay of possibly one or two more weeks on the question—before we could file another petition and see that it reached the superintendent or the commissioner, why, they concluded they would substitute block construction. And the papers bore the endorsement on them, “Amended September 23, 1898, by using eight inch terra cotta blocks.” Now, with those facts in view—that endorsement was signed “W.” I do not know who that was. I have an idea it was Wilcox, as he is engineer of the department, that is all I have any idea of it, that is the only one I know of in the department with any initial of a “W.” I talked the matter over with Mr. Dobbs, as I stated. I consulted my brother, and I consulted one or two other people in a general way, stating the facts as we had found them, and asked their advice in the position that I was, or that our company was placed in—what we had better do. Mr. Dobbs assured me that Commissioner Brady was a nice man, and that he would not listen to or tolerate for a moment any action on the part of subordinates in his office, and that if I could substantiate or prove what I told him that Mr. Brady would bring charges against the man or men, whoever they were, and investigate the matter thoroughly. And it was to my interest, being a personal friend of Commissioner Brady’s, or having known him for a good many years, both as commissioner or superintendent, and when he was a builder, having executed work where he had contracts for, of metal lathing, that being one of our branches—I made up my mind I would see Mr. Brady. I tried many times to make an appointment, and he was always a little too busy. Finally, I nailed him down to a Saturday, the last Saturday in December, when he assured me that if I called at the Department of Buildings at 1 o’clock he

would listen to me. I called there, and shortly after 1 o'clock, in company with Mr. Otterburg, the counsel of Mr. Dooner, Mr. Brady and myself adjourned to a cafe on the opposite corner of Eighteenth street and Fourth avenue and had lunch. Mr. Brady dismissed Otterburg and Dooner, and now he says, "Mr. Tostevin, go ahead." And I went at him, and I told him, or related, at least, my story, as I have here now; and he told me then and there: "Tostevin, if you can prove this, I will have it corrected." I made a point in this: That I denied the right of any subordinate in the Building Department to receive a paper directed to the board of examiners, through the superintendent of buildings, and pass judgment on it without having passed it or given it, or handed it through the proper authorities to the board for them to say whether it was regular or irregular; and he said that was a good point. He says, "That is a sufficient ground for me to bring charges, and possibly it will be equivalent to a removal." Says he, "Who do you suspicion is that man?" I says, "I don't know; but there is an initial "W" signed on it. Now, I gave him a statement or a condensed copy——

Q. Did you tell him of "Con" Daly? A. Sure.

Q. You told him about that proposition? A. Yes, sir, I told him about it.

Q. And your preliminary talk with Dooner? A. I had no preliminary talk with Dooner.

Mr. Moss—I mean Hayes's talk with Dooner.

The Witness—Yes, sir.

Q. You told him about that? A. Yes, sir.

Q. What did he say further, if anything? A. Well, he said nothing since, except we passed the time of day. Yes, I would say that I went over two or three days afterwards. I reported the conversation to Mr. Hayes, and he asked me again in regard to the ability or the qualifications of the engineer. It came up between us. And I asked him point blank if he considered him a competent man, and he says, "Yes, sir, I do." "Well," says

I, "I do not know. I am not an engineer myself. But from what I have heard engineers say, he is not." The fact is I reported all these matters to Mr. Brady, and up to this date neither I nor Mr. Hayes have been called as witnesses against Mr. Dooner or any one else. No prosecution of any kind was started. This was in December the interview took place. The occurrence was in September and the statement was in December. My interview with him was in December of this last year, 1898.

Examined by Mr. O'Sullivan:

Q. Do you know whether or not any investigation followed your complaint in December? A. No, not that I am aware of. I was never notified of any.

Q. You heard your partner, Mr. Hayes, testify that the building superintendent wished he could get rid of two men that were engineers in the department, did you not? A. Yes, sir.

Q. When did he express that wish? A. When Mr. Hayes expressed that wish?

Q. No, when was that wish expressed to Mr. Hayes? A. Oh, I don't know.

Q. How do you know that it was not in consequence of an investigation? A. Because it was done previous to my interview with Daly. Mr. Hayes informed me of that previous to my interview with Daly.

Q. The petition as you found it was irregular when you found it? It was minus some tracing, and minus an answer to an important question, was it not? A. No, sir, the petition was not. The petition was regular in form.

Q. What did you say about the absence of some tracing, that you found? A. A tracing of construction is required, or a detail.

Q. That is an essential in the framing of the petition? A. No, sir.

Q. You failed to find it the first day, and with Mr. Hayes's aid you found it the second day? A. We found it the next day, yes, sir.



Q. A question as to the composition of the material you did not answer in the petition? A. It was not asked of us or required in the petition. It was asked in a general number of questions on a special blank, directed to the architect.

By the Chairman:

Q. That blank was filled out? A. That blank was filled out, and every question answered on it by the architect, with the exception of that one question; but the detail shows the information. The detail gives that.

By Mr. O'Sullivan:

Q. Had your product been submitted to any public tests in competition with other fireproofing material? A. Under the Expanded Metal Fire-proof Construction Company's system. It was merely a duplicate of the Expanded Metal Fire-proof Construction Company's system.

Q. I ask you if the product which you had mentioned in that petition, and which you wished to use had been submitted to any public test? A. No, not that.

Q. In this city? A. No, sir. A similar one, when I was with the Expanded Metal Fire-proof Construction Company, yes, sir.

Q. This was a different one you are now speaking of? A. Yes, sir.

Q. Does the construction of the material indicate that it was a substantial material? A. It would be the same in construction, except that instead of being expanded metal, we use a No. 6 galvanized four inch, or No. 10 steel mesh—or No. 6, I should say, steel mesh, or any standard metal.

By the Chairman:

Q. Is that a superior or inferior, or an equal material? A. Engineers tell us that the wire is stronger than the expanded metal.

By Mr. O'Sullivan:

Q. It was not necessary at all to the petition? A. No, sir, it was not necessary at all. It was asked for.



Q. Asked for by whom? A. Previous to the filing of the plans, as I understand it, it was asked for.

Q. Asked for by whom? A. I don't know. Some of the departments. I suppose some one in the department asked for that tracing, as the petition said that it would be used—the Tostevin-Hayes construction, and I presume the thought occurred to them “What is this construction?” and they wanted a detail from us of the construction.

Q. They considered it essential? A. I don't know whether they did or not.

Q. They asked you for it? A. I presume they did. I don't know. It is always customary for us to file it, without being asked.

Q. Then you do know that it was absent when you saw the petition on file? A. Yes, sir; but I found it the next day.

Q. With the petition? A. Yes, sir, I overlooked it. It was there, but it was in among some plans. In company with Mr. Hayes we found it, but in the papers that were referred to the department it had slipped in, and we had not taken that, or I hadn't looked in that package of papers, which was the application for the erection of the building, and consequently I overlooked it.

Q. And from your overlooking it, it was possible for the official to overlook it, as you had done? A. No, it had a check on it, showing that it had been looked at.

Q. I say, he might have overlooked the tracing just as you had? You can see the possibility that he made a mistake as you did?

The Chairman—He says it had a check mark on it.

A. No, there was a check as having been examined. I overlooked it in my examination.

By the Chairman:

Q. Your present method would be stronger than the wire? A. Yes, sir.

By Mr. O'Sullivan:

Q. That is your own opinion? A. I haven't any opinion of my own.

The Chairman—He said the engineer's.

Q. Did Mr. Wilcox— A. No, outside from the department.

Q. But apart from the speculative opinion on the merits of this improvement, as you claim it, it has never been submitted to any public test? A. No, sir.

Q. In connection with the long conversation you had with a man named "Con" Daly, as a saloonkeeper, as you describe him, did he ever hold any public office in this city? A. Not that I am aware of.

Q. Is he attached to any public office in this city? A. Not as I am aware of.

Q. Did Mr. Brady in such talks as you had, in any way refer to him? A. He knew him.

Q. As a saloonkeeper, as you knew him? A. He knew him.

Q. Who is Mr. Dobbs, that you have mentioned? A. One of the present board of examiners. A retired carpenter and builder, and one of the present board of examiners.

Q. Is he now with the board? A. He is still a member of the board, yes, sir.

Q. And so it was not anything very strange for him to endorse the honesty of Commissioner Brady? A. No, sir.

Q. You never paid anything to this man Daly? A. No, sir, and never will.

At 2:30 p. m. a recess was taken until 2:45 p. m.

#### AFTER RECESS—3 P. M.

Mr. Moss asked for the blotters of the Nineteenth and Twentieth Precincts, and called for Captain Price, who responded and said that the blotters were in the court-room.

Mr. Moss—Is Frank Croker present?

The Chairman—Is Mr. Croker present? Mr. Moss, I want to state that Mrs. Richard Croker was here this morning, and in re-

ply to a question from me as to where her son was, she said he had gone out of town. Further than that she could give no information.

Mr. Moss then called for Cornelius Daly, to which there was no response.

DANIEL F. McMAHON, sworn:

Examined by Mr. Moss:

I was a former police justice, and am at present a contractor of the firm of Norton & Company; I am also a leader in the district of Tammany Hall; my firm has a contract from the Third Avenue Railroad for the changing of the motive power; we are carrying out that contract; I disremember the date when I received that contract; some time last fall; Bernard Norton and John Kelly are the other members of the firm; John Kelly is a gentleman who resides in New York city, and a member of our firm; he resides at Seventy-sixth street; he has no other business or occupation to my knowledge; Mr. McNulty is our engineer in charge of the work; we got a permit for opening the street before we began work; the permit came through the Department of Highways to the Third Avenue Railroad Company.

Q. That permit was not issued until you had had your contract, was it? A. That I could not say. I do not know whether or not anyone else had a contract with the Third Avenue Railroad Company for doing that work before my firm had. A gentleman told me one time that he thought he would get a contract. That was Mr. Crimmins. I do not know whether Mr. Crimmins applied for a permit.

Q. How many men are working upon that job? A. That is pretty difficult for me to tell. I know there are several thousand, three or four, perhaps.

Q. How were those men appointed? A. They are appointed in a number of ways.

Q. Well, what is the most important way? The way which brings the largest number of men? A. The men that we appoint that apply for positions right from the sidewalk—the largest

number; although we appoint for men interested in Republican and Democratic politics, clergymen, merchants, lawyers, and any other gentlemen who are acquainted with either of us, or send an application to us—if we think the man is qualified to perform the duty. The appointments have been made that way ever since we have had the contract.

Q. Is it not a fact that applicants for work upon the road have to be recommended by district leaders of your organization? A. No, sir, it is not; positively.

Q. How many men have been appointed upon the recommendation of district leaders? A. District leaders—do you mean Republican or Democratic?

Mr. Moss—I mean district leaders of your own stripe. A. I could not tell. Quite a number from both.

Q. Can you tell how many from your own? A. No, I could not.

Q. Can Major McNulty tell better? A. I don't know that he could. I don't think he could carry the figures.

Mr. Moss—I put you on the stand ahead of my plans because I wanted to relieve you from waiting here. I will ask you to see that a list is furnished—not a list of names, but a tabulation of names. I will call upon you later for that.

The Witness—Very well.

Mr. Moss—I will suspend your examination now.

The Witness—It is utterly impossible to tell where all these men come from. As near as possible.

Q. You have their recommendations on file, have you not? A. Some of them. A number of them are sent to us, or are appointed on personal application of the gentleman who accompanies the man. We haven't that.

By the Chairman:

Q. Is it any particular man's province to appoint these men? A. No, no particular man. Either Mr. Norton, Major McNulty or myself appoint. No particular man.



Mr. Moss then called for Mr. Daly, to which there was no response.

WILLIAM S. DEVERY, sworn:

Examined by Mr. Moss:

I am chief of police; I become chief, I think it was the 31st of June, 1898. When I was promoted, I was holding the position of deputy chief of police; I had been deputy chief about two weeks.

The Chairman—Chief, you know June has only thirty days.

The Witness—The 30th of June, I mean. I was promoted to that position from inspector. I had been inspector from January 7, 1898; it was two or three months. I was made inspector from being captain; I had been captain—the 30th of December, I think I was made, 1892. My promotions from the captaincy to the chief occurred in about three months. I did not pass any civil service examination for any of those promotions above captaincy. At the time of these promotions there was an untried charge against me in the Police Department, the same charge that has been going on for several years. I believe the trial of that charge was stayed in February, 1897, by a temporary order of Justice Smythe of the Supreme Court. I was about to be tried on the charge before the police commissioners, and on the trial day this temporary stay was produced; I know I was not tried; I believe the motion for the stay was argued. It has never been decided that I know of; I was under a charge in February, 1897; I was called up for trial; my counsel made a motion in the Supreme Court to stay the trial, and got a temporary stay. The motion was argued in February, 1897; that motion has never been decided, not to my knowledge, and, therefore, since 1897 I have been holding my position under a charge, or at least with the charge untried against me, which has been held up by a temporary stay. When I was being promoted from captain to inspector and from inspector to deputy chief and from deputy chief to chief, the commissioners who promoted me did not discuss this charge with me; they did not ask me anything about it; they understood that I



had been tried before, and I had two or three trials on the same charges as this, virtually the same; the specifications that you presented to me.

Q. What are the specifications upon which you are tried before a jury? A. A part and parcel of the complaint that was tried up——

Q. No, what was it? A. I disremember now.

Q. Do you not remember what you were tried for before a jury? A. I think it was the Seagrist.

Q. What was that? The committee does not know? A. That was a part of the complaint that you say was tried up.

Q. No, but what was the Seagrist matter that you were tried on before a jury? A. I disremember what that was.

Q. Do you not remember that? When did you forget that? A. When I was acquitted.

Q. That was very wise. Now, as you forget the charge upon which you were tried before a jury, how do you know that it is the same? A. That is in this envelope that was brought down from the department. I know from its being part of the specifications.

Q. Do you not know that in the many specifications in this charge, there are only two or three of them that relate to this Seagrist matter? A. They were identical to everything I was tried before a jury on, almost.

Q. Then you admit that there was some difference? A. I remember the charges pretty well.

Q. The matter for which you were tried before a jury was the Seagrist matter? A. The Seagrist matter.

Q. That is all? A. Yes, sir.

Q. Now, if you were tried before a jury for the Seagrist matter, and acquitted by the jury, why did not the board of police bring up this charge that was on your record against you and hold an inquiry and dismiss this? A. I lived two years under your board and you never brought it up.

Mr. Moss—No, but I am asking you why the other board did not do it.

The Witness—I cannot account for that.

Q. Do you know why the board to which you have alluded did not try you under this charge? A. I had no conversation with them.

Q. No; but do you know why? A. I can't account for it.

Q. Was it not because you had obtained the temporary stay from Judge Smythe, which prevented them from trying it? A. That may have been.

Q. Why, of course; how could they try you without committing contempt of court? Now; it was you that applied for that stay, was it not? A. I certainly did.

Q. So that it was you that prevented the inquiry into this case? A. I thought I had been persecuted enough.

Q. But it was you that prevented it? A. Certainly.

Q. Then it was entirely due to your view of the proprieties of the case that this matter has never been officially disposed of from the records of the Department, is it not? A. I presume that is right.

Q. Now, why have you not disposed of this case before permitting yourself to be promoted to the highest positions in the Department? A. I don't understand that question.

Q. You do not understand the question? A. No.

Q. Let me see. Do you remember who were the witnesses on your side in the jury trial in the Seagrist case? A. I can't remember that.

Q. Do you remember who your alibi witnesses were? A. There were numerous of them.

Q. Do you remember that Mr. Seagrist testified positively to the payment of money? A. And I——

Q. And you positively denied it? A. Yes, sir.

Q. And you produced several witnesses, who said you were at a fire at the time Mr. Seagrist said he paid you the money? A. Yes, sir.

Q. And that is the way the case went to the jury? A. That is right.

Q. One of your witnesses was Frank Farrell, was he not? A. Yes, sir; he was.

Q. And he runs a poolroom now at Twenty-ninth street? A. Not to my knowledge.

Q. It was running yesterday, and people were taking bets on it? A. That could be. The same poolroom was running when you were Commissioner.

Q. Yes; go right for my administration and I will not stop you one instant, or anybody else. You say that poolroom was running in my administration? A. Alleged to have been.

Q. What position did you hold? A. Captain of Police, I think.

Q. A uniformed officer, were you? A. Yes, sir.

Q. You never saw me in uniform, did you? A. No, sir; I did not.

Mr. Moss—I never got so high as that. I offer in evidence the charges against William S. Devery, for neglect of duty, conduct unbecoming an officer, neglect to repress disorderly and gambling houses while in the Eleventh Precinct; and receiving a bribe of \$100 from one Seagrist while in the First Precinct. Dated, Complaint, February 5. Complainant, Chief Peter Conlin.

The Chairman.—In what year was that?

Mr. Moss—1897.

The Witness—Mr. Chairman; I question the counsel's right to offer that evidence here; he has already asked his questions.

The Chairman—This is not a court proceeding.

The Witness—Then I object to them being a part of the evidence of this investigation.

The Chairman—We will allow them for the present.

The Witness—All right.

The Chairman—With such reservation——

The Witness—I am here without counsel, and I ask the protection of this committee.

The Chairman—We will give you the protection your are entitled to, I am sure. We will allow them provisionally in evidence now.

The bundle of papers is marked "Exhibit F."

Q. When were you served with a subpoena? A. About 2.30 yesterday afternoon.

Q. Where were you last night at 12 o'clock? A. I was in the Nineteenth Precinct station house.

Q. Where were you at 1 o'clock? A. At 1 o'clock I was at Twenty-eighth street and Ninth avenue.

Q. Ninth or Eighth avenue? A. Ninth avenue.

Q. Where were you at 1.30? A. I was on Twenty-eighth street and Eighth avenue.

Q. Where were you at 1.45? A. I was at Twenty-eighth street and Eighth avenue.

Q. How long did you stay at Twenty-eighth street and Eighth avenue? A. I think it was about 2 o'clock or so. I can't exactly say.

Q. About 2 o'clock you left that corner and went to your home, did you? A. Yes, sir.

Q. How long had you been standing on that corner when you left it? A. About one hour.

Q. Were you with anybody? A. Oh, there was numerous people around there.

Q. What kind of people? Who were they? A. I can't recall now.

Q. Casual passers-by? A. Passers-by.

Q. What is there on the corner in front of which you stood? A. A liquor store on the corner.

Q. Kept by whom? A. I could not tell you the man's name just now. I think it is a man by the name of Louchran. I ain't sure.

Q. This is on the northwest corner of Twenty-eighth street and Ninth avenue? A. At the corner of the street at which I live.

Q. You live in that street at No. 327? A. Yes, sir.

Q. How long have you lived there? A. About four years.

Q. How long has the saloon been there? A. Since the house has been built. I ain't sure.

Q. And you really do not know who the proprietor of that saloon is, on the corner in front of which you stood last night? A. I don't, except it is a man by the name of Lochran.

Q. You know that while you were standing there at the northwest corner, about 1.40 o'clock, which was after hours, the saloon in front of which you stood was doing business, do you not? A. I do not.

Q. Why do you not know that? Were you not looking? A. No, sir; I was not.

Q. Do you not know that men were going in and out of that saloon from 1 o'clock until 2 o'clock, while you were standing there, buying drinks? A. No, sir; I do not.

Q. That persons passed you and went in and came out after drinking? A. Such could be, but I do not know anything of it.

Q. Where were you at about those hours the night before—from 1 o'clock to 2 o'clock? A. I don't recollect.

Q. Were you not on the same corner? A. I have been on that corner nightly for five years; just at what hours I couldn't tell you.

Q. Has it not been your habit to stand on the corner from about nine o'clock in the evening until 2 and 3 o'clock at night, in front of that saloon, for four or five years? A. I stand on the corner, whether in front of the saloon or on the corner.

Q. About that saloon? A. Yes, sir.

Q. And about those hours? A. Yes, sir. On my way home; standing there and smoking a cigar before I go home.

Q. How long do you stand there generally? A. Oh, that depends.

Q. Two or or three hours, do you not, sometimes? A. At times. Sometimes not as long.

Q. And when it rains, sometimes, do you? A. Yes, sir.

Q. And when it snows? A. And when it snows.



Q. And when the weather is very bad you stand there? A. When the weather is very bad.

Q. And people come there and report to you, do they not? A. At times.

Q. Police officers? A. I have got a telephone in my house.

Q. Of course you have. I know that. But the telephone is not on the corner? A. No, certainly not.

Q. But you stand there on the corner receiving people there? I ask you if they are police officers? A. No, they are from the meekest to the highest, no matter who come along I receive them and hear what they have to say.

Q. Are the meekest and the highest running about that corner at 2 o'clock in the morning? A. That is a matter of my own concern, standing there.

Q. Do you stand there for the purpose of receiving reports? A. No, I do not.

Q. Do you stand there on police business? A. At times, yes, sir.

Q. Generally, do you? A. I am on police business at all times.

Q. I know that, but whether you attended to it always is the question for discussion. A. Whenever I have occasion to, yes, sir.

Q. But you have no special purpose for attending to police business when you stand on that corner, have you? A. At all times, a police officer, whether on the corner or not.

Q. You are always on duty. You are on duty now, are you not? A. Yes, sir.

Q. Exactly. But you are not on police business just at this minute, are you? A. Not at this minute, no.

Q. Now I ask you, making the same distinction, do you stand on the corner for police business? A. Not altogether.

Q. Then who are these people whom you meet there, eighteen or twenty or thirty people sometimes at a night on that corner? Who are they? A. I know some of them are my own officers on my own staff.

Q. Yes; but there are a great many of them who are not police officers at all, are there not? A. There is no doubt about that.

Q. Do you sometimes meet the Bergens there? People by the name of Bergen?

The Witness—Bergen?

Mr. Moss—Bergen, yes.

A. I don't remember meeting any Bergens there, no.

Q. Do you not know any Bergens? A. I know some Bergens, yes, sir.

Q. Who are they? A. One of them is a brother-in-law of mine, if that is the Bergen you mean.

Q. Only one of them? A. That is all.

Q. What is his name? A. Michael Bergen.

Q. He has sons, however, has he not? A. He had a son seven or eight years old.

Q. Are there no other Bergens besides the Michael Bergen that is related to you? A. That is all.

Q. What is Michael Bergen's business? A. He is a clerk.

Q. For whom? A. I can't say.

Q. For Al. Adams? Eh? A. You know more about that than I do.

Q. Is it so? A. I couldn't tell you that.

Q. He is your brother-in-law? A. He is my brother-in-law.

Q. You have known him how long? A. Oh, ten or fifteen years.

Q. You do not know what his business is? A. I do not enquire into his business.

Q. Where does he do this clerking? A. I could not tell you that.

Q. In Thirty-first street? A. I couldn't tell you that.

Q. Do you not think so? A. I don't think so.

Q. You do not think so? You sometimes meet Frank Farrell on the corner, do you not? A. Yes, sir, I do.

Q. You talk with him? A. I do.

Q. You talk with him about that pool-room that I did not raid, when I was police commissioner? A. I do not.

Q. Don't you ever ask him about it? A. I do not.

Q. Why not? A. Because I don't know what business he is interested in.

Q. Why do you not want to find out? A. I don't want to pry into people's business.

Q. You were always on police duty? A. Not on their private affairs.

Q. Is not that your business, if they run pool-rooms? A. I don't talk business of everybody that comes to me. I don't want to enquire into everybody's business.

Q. He is not the only man who runs a pool-room who comes and talks to you on the corner? A. There is nobody comes on that corner that keeps pool-rooms, that talks to me, that I know of.

Q. There are persons who are supposed to be interested in policy that see you there, are there not? A. No, sir.

Q. Are you sure of that? A. I am positive of that.

Q. There are persons that meet you there who are interested in concert dives, are there not? A. Not that I know of.

Q. What do you call the Trolley Club? Is that a dive or is it not? A. I have never been in it.

Q. It is right across the avenue from the corner on which you stand, is it not? A. Well, I don't drink only once in several years, and I don't go into those places.

Q. I do not understand you. You do not drink what? A. Only once in five or six years, and I don't go into those places.

Q. One would not naturally go into the Trolley Club and get a drink, would he? A. I don't know that the place is a dive.

\* Q. But it is right near your own house and you do not know whether it is a dive or not? A. I do not.

Q. Have you not your suspicions that it is? A. I have not.

Q. You have no judgment on the matter at all, have you? A. There is a captain in charge of that precinct and he has never reported that fact to me.

Q. But you stand on the corner, and have for five years, nightly right in front of that, and the captain has not reported it to you,

is that right? I do not mean is that right, but is that what you mean? A. I certainly stand on the corner, night and day, some part of the night, and have for five years, and I don't know that it is a dive.

Q. But at 2 o'clock in the morning, and at 3 o'clock in the morning, and later if you are there, you see the women going in and out constantly, do you not? A. I see women going up and down the avenue.

Q. In and out of the Trolley Club? A. They may go in and out of there. I could not say that.

Q. A good many, do they not? A. I never followed them in.

Q. Have you not seen them go in the entrance? A. There are certainly women around there.

Q. At 2 and 3 o'clock in the morning? A. I presume they go in there.

Q. You do not mean to say that women are running in and out of the Trolley Club at 2 o'clock in the morning, and that it is a respectable place, do you? What is your judgment on that, as a chief of police? A. Well, there are many places that I can go in and out of that are not dives. I have not been in the place and I can't give you my judgment on it.

Q. If you were a police captain and saw women go in and out of a place like that at 2 or 3 o'clock in the morning would you consider it your duty to investigate it? A. I certainly should.

Q. But inasmuch as you are not the captain, but only the chief, whose home is within a stone's throw of it, you do not think it is your business to interest yourself about it, do you? A. I have called the attention of the captains, I think, at times, to these places.

Q. Have you called the attention of the captain to the Trolley Club? A. I can't say whether I have specifically called his attention to it or not, but to all places of that kind. They get their orders at various times touching matters of that kind.

Q. What is that place just north of the Trolley Club, the corner house, where the women throng in the small hours of the

morning? What is the name of that? A. I don't know. There is another liquor store on the corner.

Q. You have seen the women going in and out of that place, have you not? A. Not to my knowledge.

Q. Were they not going in and out of there last night while you were standing on the corner? A. Not to my knowledge.

Q. What do you do on that corner if you do not see? A. I just stand there to breathe the fresh air.

Q. Is the air particularly fresh on that corner? A. Yes, sir, prior to going in the house. I have got a right to stand some place.

Q. Of course you have; and so far as I am concerned, you can stand on that corner for five years more and I will not find fault with you. Now, above Twenty-eighth street, right in plain view from that corner which you affect, there is a place called the Brighton Club or Brighton Concert Hall, is there not? A. Yes, sir.

Q. What have you observed about that place? A. Nothing out of the way. I have never been in it.

Q. You have never been in it? A. No, sir.

Q. In all the time you have watched it have you asked for specific information from the captain of the precinct about this place which you would not go into? A. They have got their orders on all concert saloons that you speak of.

Q. The general orders, of course; but you never gave them any special orders, did you? A. I had no occasion to.

Q. You are perfectly satisfied to have those places run just as they are, close to your home and family? A. The place is a block and a half away from the corner of Twenty-eighth street. Between Twenty-ninth and Thirtieth.

Q. Then it does not immediately affect your home? Is that what you mean to say? A. I have never thought it did. I have never heard any complaints in any way, shape or form.

Q. Do you not know that that whole neighborhood running in and down alongside of that street on which you stand every



night has been called and is now known as the new Bowery, because of the concert halls and dives that have accumulated there?

A. That is news to me, the new Bowery.

Q. That is news? Well, it has been in the newspapers for a long time. A. I have never seen it.

Q. Do you read the newspapers? A. Once in a while.

Q. I do not want to boom any particular newspaper, but I will show you a whole broadside of one of our enterprising journals, entitled "The New Bowery is Eighth avenue between Twenty-third and Thirty-fourth streets," and some other things, and here are pictures of the way the people conduct themselves inside of these places that I have just called your attention to. Did you ever see that? A. No, sir, I did not.

Q. Do you not have the papers clipped for your information and inspection at the police headquarters? A. I do, but I don't remember ever seeing that. That must be one of the ones that they didn't cut out.

Q. I do not see how they could miss such an attractive exhibit as that. There didn't any of those uncertain damsels ever speak to you and address you on the street? A. No, sir, they never did.

Q. Do they know you? A. I could not say that.

Q. They all know that the chief stands over there on the corner, do they not? A. I know nothing about it.

Q. You are a fixture there, are you not? A. I presume almost everybody in New York knows the chief.

Q. Exactly; and those people who patronize such places and are on the verge of respectability are presumed to know the chief when they are around? A. They may.

Q. And still they run in and out of those institutions right under your eyes, with perfect impunity, do they not? And you never trouble them, do you? A. No, sir, I do not.

Q. It is not any part of a policeman's business to keep the streets free of such persons, is it? A. Yes, sir.

Q. Have you the same duties that a patrolman has, to see that the laws are enforced? A. Yes, sir.

Q. There is no distinction whatever in the law between you and the meanest patrolman, as to what the police must do? A. That is right.

Q. But the burden is all the greater because you are the chief and in command of 7,000 men, and setting an example for them in your own person. Is not that so? A. Yes.

Q. Now, perhaps you can tell me and perhaps you cannot tell me who is the proprietor of the Brighton Concert Hall? A. I could not tell you.

Q. Are you no more distinct about that than you are about the saloon in front of which you have stood for four years? Do you not know anything about it? A. I do not.

Q. Who are Slavin and Nelson, who have licenses or a license for that place?

The Witness—Slavin?

Mr. Moss—Or Salvin. Salvin and Nelson. Why, Chief, do you not remember him?

A. I met Salvin once or twice in a barber's shop where I get shaved.

Q. You have talked with him? A. Casually. I passed the time of the day.

Q. Know who he is perfectly well? A. I don't know anything about it.

Q. But you know that he belongs with this Brighton, do you not? A. I do not.

Q. What do you talk to him about? A. The same as I should speak to you passing by.

Q. Honor bright, you do not know that he is responsible for that Brighton? A. I have heard no complaints for that Brighton.

Q. You do not know who is responsible for it? A. I don't know who is about there.

Q. You do not know who is responsible for it? A. I do not.

Q. While there are things about it which would make you suspicious if you were a captain, you have never taken the trouble to investigate it yourself, have you? A. No, sir; I never investigated it.

Q. You have never asked for a specific statement from the captain about it? A. He has his orders on those matters at all times.

Q. You have never asked him for a specific statement about it, have you? A. Not that I can remember.

Q. Those people are not a bit afraid of you, are they?

The Witness—What people?

Mr. Moss—The people at the Brighton and at the Trolley and at Kenny's Cafe on the corner? I have got the names which you did not remember. They are not a bit afraid of you? A. They would be if they violated the law any way.

Q. How about the man who was selling drinks last night right behind your back, after hours? A. I know nothing about that.

Q. Why do you not know? The proof is here in the courtroom? A. That may be.

Q. And he has been doing it every night? A. Not to my knowledge.

Mr. Moss—Mr. Trainor, where are you? I will ask you, Mr. Trainor, right here, and suspend the captain's examination for a moment.

MICHAEL TRAINOR, sworn:

Examined by Mr. Moss:

I am a barkeeper at Twenty-eighth street and Eighth avenue, Mr. Lochran's place. I go on duty at different hours. I was on duty at 7 o'clock last night. I stopped on duty until 1 o'clock. After that a little bit, and I cleaned up until the other man came at 2. My hours are from 7 to 5 and I am not supposed to do any business after 1 o'clock. Next week I am on from 7 in the morning until 7 at night. There is somebody that relieves me—the night bartender. We have a day bartender and a night bartender. One goes off for a while. One attends to it for the day and the other for the night. The night man has to do some cleaning there.

Q. Do you spend four hours cleaning up, from 1 to 5 o'clock?

A. It takes that and more oftentimes. We do a pretty good business there.

Q. It takes you four hours to clean up? A. Well, I don't say it takes four hours. Sometimes I want to rest perhaps in that time. We don't stick to business very close all the time.

Q. You do not know the chief at all, do you? A. Well, I just see him up there. I know him—not personally.

Q. You see him there standing on the corner? A. Yes, sir.

Q. And he comes in and gets a drink himself occasionally, does he not? A. No, sir.

Q. Never? A. No, sir. I deny it.

Mr. Moss—I am very sorry to have made such an accusation against you.

The Witness—That is all right.

Chief Devery—I will say that he has never seen me take a drink of any intoxicating liquors there. He may have seen me take a drink of sarsaparilla.

The Witness—That is it. I may have seen him take a drink and get a cigar.

Q. You may talk because the captain has authorized it. Now, don't the chief come in there and get a cigar occasionally, and a drink of something? A. I am not always there. He often comes in in my time, and I pass little remarks with anybody, no matter who they are.

Q. He often comes in at your time and you always know where to find the chief, do you not? A. I do not.

Q. And you find him on the corner if anything happens? A. I don't know anything about the corner.

Q. You never saw him on the corner? A. I might, if I passed. I don't know anything about the corner.

Q. The chief says he has stood on the corner every night, and he has done so for five years? A. He may be there. I don't live on the corner.

Mr. Moss—That is all of this witness.



WILLIAM S. DEVERY, recalled:

Examined by Mr. Moss:

Q. Who is the proprietor of the Trolley? A. I could not tell you.

Q. Does not your board have the granting of concert licenses and do you not have something to do with that? A. You say the Trolley is a club. They don't grant licenses for clubs.

Q. The Brighton is not a club. That is licensed? A. Yes, sir.

Q. And licensed by the police department? A. By the board of police commissioners.

Q. And you are the executive? A. Yes, sir.

Q. And the board depends on you and your officers to furnish information? A. Yes, sir.

Q. And the board of police commissioners has issued a license for that Brighton Club and you have not prevented it, have you? A. The board granted it on the report of the captain of the precinct, whoever made it. I know Bob Nelson. He is not interested in the Brighton, that I know of. I have never talked with him about the Brighton. I have no occasion to. He is not interested in the Trolley Club, that I know of. I have never seen him around the Trolley Club. I have known him twenty-five or thirty years. He is in the liquor business at Thirtieth street and Seventh avenue. He is really the proprietor of that; I know that.

Q. Now, that is what is known as a black and tan dive, is it not? A. I don't know it by that name.

Q. Have you never heard it called that? A. No, sir.

Q. Have you ever heard it spoken of in that way? A. No.

Q. Have you ever heard of it that way?

The Witness—What do you mean by a black and tan dive?

Q. Do you not know? A. No, sir.

Mr. Moss—I am using a police expression. I supposed you were familiar with it.

The Witness—You mean a resort for colored and white folks—not black and tan.



Mr. Moss—For colored and white folks, men and women?

The Witness—They may go in and out.

Q. You do not know that it is so? A. I have been in there a couple of times and seen them there.

Q. More than a couple of times? A. Well, no, I don't—well, say several times.

Q. Quite a good many times? A. Well, that is all.

Q. That saloon has a good deal of notoriety in police circles, has it not? A. Never heard any complaint from it.

Q. I didn't ask you that. It is a notorious place in police circles, is it not? A. No, sir, it is not; not to my knowledge.

Mr. Moss—You are going on record on all these things.

The Witness—I am going on record. I never heard of complaints from it.

Q. You never heard of assaults and murders having been committed in that saloon? A. I have never heard of a murder being committed in that saloon, no, sir.

Mr. Moss—You do not seem to know about Mr. Nelson's connection with this place——

The Chairman—I call your attention to his answer. He says he never has known of a murder having been committed there.

Mr. Moss—Thank you. I still ask you to consider this interesting exhibit in the public press. "A unique character is Mr. Bob Nelson, the boss of the New Bowery." It goes on to state Mr. Nelson's connections with the Trolley Club and with the Brighton. Did you ever hear anything of the kind? A. Never did.

Q. This Mr. Nelson is a pretty good friend of yours, is he not? A. He is a friend of mine; yes, sir.

Q. He was your bondsman on the case where you were tried before the jury in the Siegrist charges? A. Yes, sir.

Q. Is that any reason why you close your eyes to the character of his resorts on Eighth avenue? A. I don't know of any

resorts that he is in on Eighth avenue. I close my eyes to no resorts where duty calls me to interfere, whether it is a friend or foe. I have got a duty to perform.

Mr. Moss—We agree with you on that.

By Mr. Hoffman:

Q. This black and tan referred to here in the evidence just gone over; has that a liquor license? A. Yes, sir.

Q. Granted by whom? A. By the Excise Board.

By Mr. Moss:

Q. Have you ever known Nelson to bear any other names? A. No, sir.

Q. Such as Robert Wilson? A. No, sir.

Q. Do you know that he was the leader of a gang of thieves and burglars? A. No, sir.

Q. Do you know that because of the depredations of a gang of thieves and burglars of which he was a member, near Biddeford, Maine, the militia were ordered out to hunt for him? A. I do not.

Q. Wait a moment; that he was found on the street in the Nineteenth Precinct and arrested by a police officer and surrendered to the sheriff, to be taken back to Biddeford? A. I do not remember any such case.

Q. Did you never hear of that? A. I never did.

Q. You never heard of that in the record of Mr. Nelson? A. I never did.

Q. Did you ever know that he was associated with the McGloin gang? A. I did not.

Q. Do you know what the McGloin gang is or was? A. I have heard of them, yes, sir.

Q. Do you know that they were in the habit of stealing liquor from in front of stores and taking that liquor to that very saloon at Thirtieth street and Seventh avenue and disposing of it through that saloon? A. I knew nothing of the kind.

Q. You said you had not heard of murders being committed in that saloon? A. I never did.

Q. But do you know that men have been arrested in that saloon for murderous assault, and tried and convicted? A. I can't recall any case of that kind.

Q. How often did you see Mr. Nelson? A. Outside of the court room, I guess I have seen him perhaps once or twice in a month.

Q. Is he not a very prominent man in police matters in his neighborhood? A. Not that I know of.

Q. Have you any idea how many times his bond has been taken in the Nineteenth Precinct station house for street walkers? A. No, I have not.

Q. Do you know that it is so? A. I have heard of his going bond for some people there. Just who they were I didn't know. Mr. Nelson is a man worth considerable property.

Q. And he has a monopoly practically of the business of giving bonds for unfortunate women there, has he not? A. Not to my knowledge.

Q. Gets ten dollars a piece from them, does he not? A. You will have to ask him that. I know nothing of it.

Q. Do you know that Mr. Nelson has boasted that he had such relations with you that if policemen would deposit money with him they would receive transfers and details and assignments as roundsmen? Do you know that? A. I do not, because I know Mr. Nelson would not attempt to do anything of the kind.

Q. How do you know that? A. I am pretty positive of it.

Q. How are you positive? A. I have known him twenty-five years and I don't think he would do anything of that kind.

Q. You have known him intimately for twenty-five years? A. On and off.

Q. And he is a friend of yours? A. Certainly.

Q. And you would not think a friend of yours would hold money for you? A. Oh, no occasion to hold any money for me.

Q. He would not have any occasion to hold money for you? A. No, sir; I can hold my own.

Q. Do you know Marty Bergan?

The Witness—Marty Bergan?

Mr. Moss—Yes, Marty Bergan?

A. I do not, to my knowledge.

Q. He is going to have a benefit over there at the Trolley Club in a night or two? A. I don't know him.

Q. He is not related to Michael Bergan, is he? A. No, Marty Bergan; no, sir.

Q. Now, for a minute we will talk about Farrell again. You have already said that Mr. Farrell meets you sometimes and talks with you, and that he was a witness for you to help prove the alibi. I suppose it did not come out in your trial that he kept a pool-room, did it. A. No, I don't think the question touched the pool-rooms.

Q. That part did not come out? What business did he say he was in? A. I disremember.

Q. He has been quite prominent in politics in that neighborhood, has he not?

The Witness—Farrell?

Mr. Moss—Yes.

The Witness—Politics?

Mr. Moss—Yes.

A. I don't think he ever interferes in politics.

Q. Do you not remember that he took a gang of repeaters up to Troy at the time, to help a candidate for the senatorship of the State? A. I never heard of it.

Q. You never heard of it? A. No, sir.

Mr. Moss—There are a good many things you have got to learn yet.

The Witness—You seem to know more about these matters than I do.

Q. Unfortunately I do. Do you remember when Farrell's place was pulled?

The Witness—What place?

Mr. Moss—The pool-room.

A. I never knew him to have a pool-room.

Q. A place where they take bets on horse races? A. You will have to specify the place.

Q. Fifty-four West Twenty-ninth street? A. I never knew Farrell owned it.

Q. Do you remember when that place was pulled? A. I believe that place was pulled.

Q. And it made a great deal of trouble in the department, did it not? A. None whatsoever, that I know of.

Q. What was your position at the time? Chief, was it not? A. That I could not answer; I will have to refer to the records of the department for that.

Q. Who were the officers that pulled that place? A. I could not tell you that.

Q. Were they not Inspector Brooks and an officer named McConnell of Brooks staff? A. I could not tell you.

Q. Do you not have any recollection upon that subject? A. I don't, I do not; you will have to refer to the records of the department for that.

Q. Do you not remember that immediately after they pulled 54 West Twenty-ninth street—

The Witness—One moment, let me correct you on that; I was not chief of police.

Q. No, John McCullagh was. You were not chief of police at that time? A. No, sir.

Q. But John McCullagh ordered Inspector Brooks and Officer McConnell to pull that place, did he not? A. I don't know anything about it.

Q. That is the general knowledge in the police department, is it not? A. I don't know anything about it.

Q. A matter of common report? A. I never heard of it.

Q. And after Brooks and McConnell had pulled that place they were transferred out of the borough of Manhattan, were they not? A. You are a little off on your cross examination.



Q. Will you straighten me out? A. I don't think Brooks was transferred out of the borough of Manhattan.

Q. Where was Brooks transferred? A. He was under McCullagh.

Q. Where was he sent? \_

The Witness—When?

Mr. Moss—After the raid on 54 West Twenty-ninth street?

A. If you are referring to Chief McCullagh, and he transferred him, I don't know where he sent him.

Q. But do you not know where Brooks went? A. You will have to get yourself right on this.

Mr. Moss—I am all right. You get yourself all right.

The Witness—Touching that matter about any transfer by Chief McCullagh, I don't know anything about it.

Q. You do know where Brooks went, do you not? It is a matter of common knowledge in the department, and a matter of great interest? A. I don't know where he went.

Q. Where did McConnell go? You corrected me by saying Brooks did not go out of the borough; but McConnell did, did he not? A. I cannot tell you that. You will have to refer to the record.

Q. He went to Jamaica, did he not? A. He was transferred to Queens county somewhere.

Q. Who was it that took such an interest in Farrell's pool-room? A. I could not tell you that.

Q. Was it not Commissioner Sexton? A. That is a question I can't answer.

Q. Do you not know it? A. I do not.

Q. You are not interested in Farrell's pool-room yourself, are you? A. I never knew of him having any.

Q. It was shortly after that that Mr. McCullagh left the position of chief of police, was it not? A. I could not tell you that.

Q. Your recollection is not very good on those points. That is true. Is not Mr. Farrell interested in other pool-rooms, and is

he not a partner of Senator Sullivan and of yourself? A. No, sir, not of mine; and I don't know nothing about anything else touching on his business.

Mr. Moss—It is worth while getting you on record on that fact.

The Witness—All right.

Q. You have a son, have you not? A. No, sir.

Q. Chief, while we are speaking about pool-rooms, what do you know generally on the subject of pool or betting on horse races in New York city? Do you know anything? A. There is alleged pool-rooms existing in the city of New York, which is a matter of record of this department, the same as when you were in it.

Q. Alleged pool-rooms which are a matter of record. How many pool-rooms have been raided by the police department since you were chief? A. That is a matter of record; you will have to refer to records.

Q. I know; but can you tell? A. It has been numerous; I could not tell you.

Q. Have you investigated this great subject upon which there is so much general knowledge, on which there is so much rumor, on which there are so many allegations, so as to know anything about that great gambling interest in pool selling? A. I don't understand that question.

Q. Have you investigated this matter which is so important on your own statement—the allegations of pool selling in the city of New York? A. There are specific instructions touching on that at all times.

Q. Have you investigated them? Do you know anything about them?

The Witness—In what way?

Mr. Moss—In any way.

A. I have called the attention of the commanding officers to any alleged places in their precincts.

Q. Do you know anything about them? A. I do not.

Q. Have you made any investigations yourself? A. I have not had time to do that. I have had too much to look after to make personal investigations of those matters. I have got the wants of 4,000,000 of people to look after, and 7,500 men and twenty-five miles square of territory. I hold my subordinate officers accountable for anything of that kind in their territory.

Q. Supposing they fail, what then? A. They are subject to complaint.

Q. Do you know whether they have failed or not? A. I never have heard any complaints from any citizen to the contrary.

Q. You have not? A. No, sir.

Q. Have not citizens called upon you at your office in Mulberry street, and complained that poolrooms were running, and that they were not interfered with by the police? A. If they have they have received prompt attention.

Q. I do not say, "If they have." I ask you have they? A. I can't recall any that I didn't give prompt attention.

The Chairman—Answer the question. (The question was then read to the witness.) You can answer that question directly.

The Witness—No, sir, not to my knowledge.

By Mr. Moss:

Q. I notice from the public press within the last two days, statements made by persons who say that they have called upon you and directed your attention specifically to the pool-rooms in large numbers. I ask you to refresh your recollection. Do you not remember what you told the reporters yourself? A. Only what I say, that if anybody makes a complaint touching a matter of that kind it received attention.

Q. You have just denied that persons came to you. Did they or did they not? A. I say——

Q. I do not care about that. Are you chief of police? A. Yes, sir.

Mr. Moss—Answer questions, then.

The Witness—You refer to Mr. Ganz calling on me, that was in the Times? Is that what you refer to?

Mr. Moss—I do not know what I refer to. I am asking for information.

The Witness—A gentleman came to me and had complaints against some several pool-rooms, and I placed them in the hands of the inspectors for attention.

Q. Is Mr. Ganz the only man that called on you? A. He is the only one that I remember.

Q. There are statements in these public articles, of other persons calling on you; of a certain lawyer having called on you and discussed this matter, a good while ago? A. Ganz is a lawyer. That is the only lawyer I know of. There is no other citizen made any complaint.

Q. Ganz is a Times reporter, is he not? A. No, sir.

Q. Do you mean a lawyer by the name of Gates? A. Gates. That is the name.

Q. When did Mr. Gates call on you? A. Some two or three weeks ago, I think it is. The records will show.

Q. You referred the complaint to somebody, did you? A. To the inspectors of the districts in which it was.

Q. Then did you call the inspectors up and hold them to a strict account afterwards? A. They went with Mr. Ganz and procured warrants for the arrest of those people.

Q. I asked you if you called the inspectors up and held them to an account for those matters? A. If they reported on any arrest that they made touching on the warrant——

Q. Did you call on them and hold them to account? A. I certainly would hold them to account; yes, sir.

Q. Did you? A. I spoke to them about these matters and asked what action they had taken.

Q. What did they say? A. That they had taken those agents—I presume Mr. Gates—to the courts and procured warrants in those cases and made arrests in the cases that he complained of.

Q. Then they used Mr. Gates' agent? They did not use the members of the police force, did they? A. No, sir.

Q. Whatever was done was done as the result of private efforts? A. Of Gates' complaint, at that time.

Q. And he had the evidence at that time he went, did he not?

A. Yes, sir.

Q. How is it that these poolrooms kept on running after Gates made his complaint? A. Well, similar cases have occurred from time to time. You get evidence against those places, you go into court and they are invariably discharged by the magistrate, and they go right back again, and if they get an opportunity they apply the same vocation.

Q. Did you ever go to a policy place or a pool-room in your experience as a policeman and tell them to shut up, and have they declined to do so? Did ever a pool-room or a policy man face you down when you ordered him to shut up? A. Oh, yes; they go back again.

Q. I did not say go back, but they shut up, did they not? A. They shut up; yes, sir.

Q. And when a police officer goes to a man who is violating the law in this city, and gives him to understand that he means business, and tells him to shut up, the man shuts up, does he not? A. He may, for a time. He will start out again.

Q. Then why do you not go and do it again? A. They do do it again, and continue to do it again.

Q. How is it that the pool-rooms all over the city of New York yesterday, day before yesterday, and this very day, are running without police interference? A. They are not running without police interference.

Q. Where are the police interfering anywhere to-day? A. Throughout the various precincts.

Q. Who are they that are interfering? A. The captains of the precincts are accountable for those matters.

Q. Exactly; but what do you do to hold them accountable? A. They do the best they can. They try to procure evidence against those places, as I told you, and when they get the evidence, and they go into court they are invariably discharged, the same as they make excise arrests and everything else, and forty of them were discharged day before yesterday.



Mr. Moss—That is another subject. We will get to that after a time.

The Witness—The same as the pool-rooms.

Q. Do you mean to say that this great police department under your command is absolutely powerless in this pool-room business?

A. There are no more pool-rooms than there were when you were there.

The Chairman—Answer that question.

The Witness—They are not powerless; certainly not. They are coping with the situation all the time.

Q. Let us have the answer you made about my time. A. There were alleged places in your time that was the same.

Q. You said that there are no more alleged places to-day than there were in my time. Will you stand by that? A. I don't think there is. The records will show.

Q. The records never lie, do they? A. I don't think your's did, and I don't think mine will.

Q. You give me a certificate of a character on that anyhow. Now, I come back to the first question on this line: Do you know anything about the business of pool-rooms in this city—about the way it is done? A. I do not.

Q. The way it is carried on? You have never investigated it, have you? A. Not personally; no.

Q. Do you know how many alleged pool-rooms there are in the city of New York to-day? A. The reports of the various inspectors will show that.

Q. You are supposed to know? A. I can't have an encyclopedia in my mind. The records will show. I will swear to the records, and outside of that I can't.

Q. You will swear to the records; but they are made up by other men? A. Well, I believe their reports to me until it is proven to the contrary.

Q. That is it. You will believe their reports to you until they are proven to the contrary, and you will not make any further individual investigation? A. It is subject to complaints; yes, sir.

Q. And you will not make any complaints? A. Certainly——

Q. You are not making complaints now? A. It has not been proven to the contrary.

Q. And it is not your business to get the evidence and prove it?

The Witness—What is that question?

Mr. Moss—It is not your business to get the evidence and prove the charges against your subordinates, is it?

A. It certainly is.

Q. Will you tell me how many alleged pool-rooms, in round numbers, there are in New York? A. I could not tell you that without looking at the records.

Q. About how many are there? A. I could not tell you about.

Q. Are there six? A. I can't answer any question without looking up the record in that matter.

Q. But, I want you to be on a safe limit. I cannot expect you to say exactly the absolute number? A. The records will show.

Q. But in a safe limit, about how many pool-rooms are there? A. The records of the Department are open and they will show.

Q. Are there as many as 300 alleged pool-rooms? A. They will show just what they are.

Q. Will you deny that the records show as many as 300 pool-rooms? A. I certainly shall.

Q. Do they show as many as 200? A. They do not.

Q. Do they show 180? A. Now, you will have to get the records. They do not; I will swear.

Q. Do you know whether there are a 180 pool-rooms running in New York city at this time, record or no record? A. I will swear there is not.

Q. There are a good many that are on the reports, are there not, as alleged pool-rooms? A. That you will have to see——

Q. Do you not know? A. You will have to subpoena the records here.

Mr. Moss—I can do that any time, but I want to know what you know.

The Witness—I know the reports show alleged places; just the number I cannot say.

Q. A great many, are there not? A. I can't say as to the many.

Q. Those reports are made to you, are they not? A. Yes, sir.

Q. Are they tabulated? A. And also to the president of the Board.

Q. But they come to you as the executive officer? A. Yes, sir.

Q. For the purpose of giving you information? A. Yes, sir.

Q. Do you know anything about the fact of their being pool-room syndicates? A. I don't know of any such thing.

Q. Did you ever hear of the Mahoney system of pool-rooms? A. I did not.

Q. You never heard of the Mahoney system of pool-rooms, did you? A. I did not.

Q. You never heard the name of Mahoney in connection with the pool-rooms? A. I have heard of the name, but no syndicate.

Q. You have heard the name in connection with pool-rooms. Is that true? A. Alleged pool-rooms.

Q. And you have heard the name of Mahoney in connection with a system of pool-rooms, have you not? A. I have not.

Q. Has it not come to you that there are a number of pool-rooms combined and using the information supplied from a central position maintained by Mr. Mahoney? A. No, sir.

Q. Have you heard of the Gleason system of pool-rooms? A. No, sir.

Q. Do you know where the Mahoney wires are? A. No, sir.

Q. You do not know the particular place in New York, where you can go and see the wires of a whole system of pool rooms, do you? A. I do not.

Q. You never heard of it? A. No, sir.

Q. You are willing to sit here and confess your ignorance of that matter, which is a matter of common knowledge, of public

reputation, in the newspapers constantly, and has been for a year past and over? You never heard of it? A. I have not.

Q. You have never had your attention drawn to Mr. Eagan's place on Forty-second street, over which the wires run that supply the information to the Mahoney system of pool-rooms? A. Not to my knowledge.

Q. Not to your knowledge? That is a queer answer. Do you know whether you have? A. I have not.

Q. Why, Chief Devery, did you ever hear of a house on Fifth avenue where the telephone operators are, that send out the racing news? A. No, sir.

Q. Do you not know that that whole subject was under discussion in that time, when you have spoken of my being a police commissioner? A. I don't remember it.

Q. Do you not remember that you commanded a Harlem Precinct at that time, and that a request was made of you for information on that very subject?

The Witness—Touching on what?

Mr. Moss—The subject of pool-rooms, and particularly on a certain wire on Fifth avenue.

A. There are no pool-rooms in that precinct; and I don't remember any call at that time, under your administration.

Q. I did not say there were; and I did not say Fifth avenue was in your precinct; but, do you not remember getting a communication? A. I do not; I don't remember. It may be a matter of record.

Q. Do you not remember the investigation that went on in which that whole matter was discussed? A. I do not.

Q. Shortly before there was a change in the chieftainship of the Department? A. No, sir.

Q. If your attention is called to the fact that the system of wires supplying racing information to the Mahoney system of pool-rooms, runs over the roof of Tom Eagan's house in Forty-second street; what do you conceive to be the duties of the Chief of Police?

The Witness—On the wires?

Mr. Moss—Anywhere.

A. If there is any evidence of it leading to any pool-room system in any way, shape or form, I will see what we can do to have it dispensed with.

Q. Your position is that you will simply sit still and wait until somebody makes a complaint, is it not? A. No, sir; I look around the city at everything in general.

Q. In this particular matter you will wait until you get a complaint, will you not? A. I will look it over myself, as long as you put me in possession of the facts. I will have the commanding officer of that district look it over.

Q. It is too bad to let this fall upon the commanding officer of that district. But the thing puzzles me, how it is, that a man of your long experience in the Police Department, does not know something of these facts? A. I don't go out wire chasing.

Q. You call that attending to your duty? A. Never heard of it before, either.

Q. You speak of your duty with reference to the great gambling business of pool-selling as wire chasing? A. I never heard of that.

Q. Is it not your duty to chase wires and everything else in order to enforce the laws on the subject of gambling? A. Yes, sir.

Q. How many policy shops are running in the city now? A. I could not tell you that.

Q. How many alleged policy shops are running? A. You will have to get the records here to get that.

Q. Have you any idea? A. I could not tell you that.

Q. That is an ancient form of gambling, is it not? A. Just the same as in your time.

Q. It is an ancient form, is it not? It has been going on for years past? A. They go on, in and out and all over; at stores and different places, and here and there and elsewhere.

Q. In the tenement houses and elsewhere? A. Wherever they can get a place.



Q. You know that has been going on for years, and it was in my time, and it is in yours, is it not? A. Yes, sir.

Q. It is going on? You would not dare to say it is not going on, would you? A. Certainly not.

Q. What do you know about the policy business? About how it is done, and what the system of operation is? A. At the present day, I could not tell you the system of operation.

Q. You cannot tell anything about it? A. No.

Q. Is there a drawing somewhere? A. There is supposed to be a drawing somewhere.

Q. Where is that drawing? A. I couldn't tell you that.

Q. How do the numbers get into New York city? A. I couldn't tell you.

Q. Are they sent in by telegraph, or brought in by messengers? A. I couldn't tell you.

Q. Over what ferries do they come? A. I couldn't tell you.

Q. Who are the alleged backers of the policy business in this city? A. I couldn't tell you.

Q. You never heard of them? A. No, sir.

Q. You never heard of your friend Adams being a policybacker, did you? A. He is alleged to be a backer of that business, but he is no friend of mine.

Q. He is not? A. No, sir.

Q. I simply mentioned him, as his name came to me. Have you not heard of many others, or several others? A. I have not.

Q. Such as Keeley Parker? A. Yes, sir; I have heard of Keeley Parker being in the policy business.

Q. Where is he? A. I could not tell.

Q. These men that are alleged to be policybackers, and maintaining these disreputable gambling houses in the tenement houses, swallowing up the savings of the poor—do you not keep your eye on them, and do you not know where they are at all times? A. I presume the people in the precincts where they are in the habit of frequenting have got them under surveillance.

Q. You presume so? A. Yes, sir.

Q. What do you do to find out? A. I never heard complaints touching them, but they may be interested in that business.

Q. You know they are alleged to be? A. I do not.

Q. You get complaints in your office from wives and mothers who are made to suffer because the earnings of their husbands and sons are spent in the policy rooms, do you not? A. Occasionally.

Q. Yes; and a good many of them? A. No.

Q. Well, others do? Do you mean to say that you preserve the same general air of indifference to this subject that you do to the poolrooms? A. It is alleged to exist, but I state to you matters of that kind—we give it attention at all times, and probe the situation as we can to get evidence against those places.

Q. Do you deal with the poolrooms and policy shops about as you do with the dives and concert halls up around your home there, in about the same spirit? A. Wherever the law calls our attention to these matters, we enforce the law on them, and we keep breaking them up and making arrests, and if we can get conviction, we drive them out of business, when in all instances there are complaints made to me.

Q. Do you say there have been twenty policy arrests made since January 1st, in the whole police department? A. For the specific number, you would have to look up the record.

Q. Have you any impression of more than twenty? A. I could not tell you.

Q. You have no impression about it, have you? A. Well, I don't look up the arrests, that is, as a rule, in general. The records show that. I could not give them to you in numerical number, or consolidated number.

By Mr. Hoffman:

Q. Will you explain to the Committee what the regulations are in the Police Department touching the duties of police captains in the different districts? A. They are held to a strict accountability for all violations of the law within the district, touching on

poolrooms and policy, and any other violations, no matter what the law might be that may be violated.

By the Chairman:

Q. What do you mean by a strict accountability? We have been trying to get an explanation of that from you. A. Wherever we get evidence of anything that is going on that is supposed to be offensive.

Q. How do you know whether they do give it attention? How do you satisfy yourself? A. I call the inspectors of the district to me daily, and they tell me their districts are in good working order.

Q. Then you have no personal knowledge at all on these questions? A. No, sir.

Q. Do you depend entirely on the reports that you get from your subordinates? A. Yes, sir. Occasionally, I send my own men out just to see how matters are throughout the various districts. If there is anything obnoxious or that interferes with public decency in any way, I give special attention myself. I don't wait for captains or inspectors or anybody else.

By Mr. Hoffman:

Q. Have you issued orders at any time regarding the enforcement of all laws generally, either verbally or in writing? A. Yes, sir; either verbal or written.

Q. To whom? A. The inspectors and commanding officers in the various districts throughout the entire borough.

By Mr. Moss:

Q. Have you ever called the police captains together to give them instructions, since you have been chief? A. I think I have on one or two occasions.

Q. When? A. Shortly after being made chief.

Q. Upon what did you instruct them? A. Touching on all violations of the law within their districts.

Q. That was immediately after being made chief? A. Shortly after I was made chief.

Q. That was your initial speech to the captains? A. Yes, sir. Each and every one of them was handed written orders touching on what I wanted them to do.

Q. Since that time have you called the captains together and given them any orders or discussed with them as to all police matters, and matters concerning the city of New York? A. I have at times.

Q. When? A. I couldn't exactly say.

Q. And what about? A. I couldn't exactly say.

Q. Is it not a fact that you have not called them together? A. On occasions where I would have them together, I have spoken to them about matters of that kind.

Q. On how many occasions? A. There have been two or three occasions.

Q. But I ask you whether you have called them together as a body since your initial address to them? A. On two or three occasions.

Q. For what? A. Well, on giving them orders, and on the Metropolitan Burial Association meetings, where captains would die—on some seven or eight occasions within the last year; ten occasions.

Q. Some Metropolitan Burial Association? A. Yes, sir.

Q. How many times has that been called together? A. I think it is eight times this year; there have been eight captains died.

Q. That is a private matter. That does not concern public business. I am asking now the gatherings for the discussion of public business. Have you done so? A. On two or three occasions.

Q. What were those occasions? A. I couldn't tell you those.

Q. Only two or three occasions since you have been chief? A. I hold the inspectors accountable for all the matters within that district. They are liable to be called on daily or whenever there is complaint made on any matter. They are subject to be called on daily, at all times.

Q. Is it not a fact that you do not call them together, and do not attempt to make your wishes concerning police administration known to them as a body? A. I give any instructions I have got to give.

Q. You depend entirely on written orders, do you not? A. Yes, sir.

Q. And upon the control by the inspectors? A. Yes, sir; the deputy chiefs.

Q. Do you not think it would be a good idea to call them together and discuss some of these forms of crime that are so evident over our city? A. They are instructed right along on that.

Q. Not in general meeting? A. That is not necessary.

Q. And not by you personally, are they? You depend upon the deputies? A. The deputy chiefs of the different boroughs; and by the inspectors of the various districts.

Q. You are simply performing your duties in a perfunctory and formal way? A. In every way that I think is for the public welfare.

Q. Some of the sergeants called upon you with reference to this investigation, did they not?

The Witness—This investigation?

Mr. Moss—Yes.

The Witness—Sergeants?

Mr. Moss—Yes.

A. No, sir.

Q. Did you not speak to some of the sergeants with reference to this investigation? A. No, sir.

Q. Did you not tell them that you did not want any monkey business this time? A. No, sir.

Q. I want to ask you a broad and general question. You know what the term "wide open" means, do you not? You have a conception of what "wide open" means, the term that has been so frequently applied to the city? A. You will have to give me an idea of what you mean.



Q. People allege that the city of New York is wide open. You know that, do you not? A. The city is certainly wide open. I never knew it to be closed.

Q. Then you admit that it is wide open? A. I have been born here, and it has always been wide open.

Q. You admit that the city is wide open?

The Witness—In what respect?

Mr. Moss—In the respect that you have chosen to adopt.

A. You will have to confine yourself to the questions of what you mean.

Mr. Moss—I am not confining myself. I am at liberty.

The Chairman—You do not want this committee to get the impression that you have no idea of what Mr. Moss is driving at when he asks you that question, do you?

The Witness—Wide open?

The Chairman—Yes.

The Witness—No; I don't understand what he means by wide open.

The Chairman—Mr. Moss, will you explain what you mean.

By Mr. Moss:

Q. I do not wonder. Does it not make you sleepy through the day, your standing on the corner there until 2 or 3 o'clock in the morning? A. No, sir.

Q. What time do you get down to business? A. Ten or eleven; half-past eleven o'clock.

Q. Is it not generally 12? A. Sometimes 12.

Q. About 12, generally, is it not? That is largely due to the fact that you have been up late, is it not? A. It is.

Q. You do not do any police work before you get down to the office, do you? A. Sometimes I do.

Q. And you have already admitted that while you are standing there on that corner from 9 to 1 or 2 or 3 o'clock in the morning, you are not specially on police business? A. At all times.

Q. You are always on duty? A. At heavy matters, fires or burglaries, or anything that may be reported, I go right and attend to them and stay there, more for them than anything else.

Q. If you do not get down to headquarters before 12 o'clock, about, and you spend your evenings and nights, running until far into the morning breathing the fresh air, as you put it, on the corner, how do you expect to be able to keep up with this great aggregation of crimes in the city of New York, some of which I have mentioned, as poolrooms, concert dives and policy shops? How do you expect to be able to do it? A. I attend to my business right along whenever it calls on me. I am always on duty until 2 or 3 o'clock in the morning, and up at 6 o'clock in the morning and down there when duty calls me. I am subject to call at any moment. I am liable to be aroused out of bed touching on everything.

Q. Of course the telephone is right there to wake you up, right alongside of you, in case you should be called? A. Yes sir.

Q. Do you remember that Mr. Franklin Matthews sometime along last fall said that the city was wide open, do you not? A. Yes, sir, I remember it.

Q. It was published in Harper's Weekly, yes? A. Is that what you referred to when you said "wide open"? I didn't know what you meant.

Q. You do not seem to have any idea of what I referred to. I will leave you just as you are. You remember he did charge it? A. Yes, sir.

Q. And you denied it, did you not? A. I did.

Q. When you denied Mr. Matthew's allegation, you simply meant in that general way that you have already referred to that there were no gates around the city and it was entirely open for anybody to come and go as he pleased? You meant that did you not? A. No, on the reports of the boroughs commanding officers of the different precincts and various appertaining to the matters that he referred to in his article.

Q. What did you mean when you denied Mr. Matthew's statement that New York was wide open. What did you mean to im-

ply when you denied the allegation? A. Well, I believe the reports of the various commanding officers.

Q. But what do you suppose he meant by "wide open" when you denied it? A. People were being treated, I presume, liberally in various businesses.

Q. Were people being treated liberally? A. Except where they violated the law.

Q. Then that is not all that Mr. Matthews meant when he said "wide open"? A. Of course he referred to matters in his paper, touching on different things.

Q. Whatever you thought he meant by the expression wide open, you denied it, did you not? A. I made a thorough investigation of it.

Q. Yes; but he offered to take you around and show you the places. Why did you not accept his invitation? A. I do not remember his offer to me.

Q. You do not? A. No.

Q. Do you not remember that a letter was sent to you at headquarters, which you received, and more than that the letter was printed in the public press, so that all who had eyes could read? Have you forgotten it? A. I will have to look up the reports touching on that matter, Mr. Moss. My memory is bad on that.

Q. You do not remember whether he had asked you to take a walk with him? A. He never spoke to me.

Q. By letter? A. I don't remember the letter.

Q. Is it in your mind at all that Mr. Matthews gave you an opportunity to go with him, and see what he meant by the term wide open? A. Not at the present time.

Q. And you did not see that in the newspapers, did you? A. I don't recollect seeing it in the newspapers.

Q. You have no recollection on that subject whatever, have you? A. Not at the present time.

Q. Do you read the newspapers every day? A. Pretty much. Some days I miss them in and out, but as a rule I read them. I might miss some articles that might be in the press, that you refer to.

Q. You did not accept any invitation from him, did you? A. I did not.

Q. And you did not ask him to take you, did you? A. I did not.

Q. And you knew where he was to be found, did you not? A. At Harper's Weekly, I presume.

Q. For his accusations were printed in full in Harper's Weekly, and you saw them. What did you do to determine whether his charges were true or not? A. I ordered a thorough investigation in each and every precinct throughout the boroughs, touching on the allegations made by Mr. Matthews, and the various reports of different deputy chiefs or inspectors, or commanding officers, are a matter of record, and they will answer touching on the question.

Q. You confined yourself to a paper investigation, did you not? A. I think he was asked for any specific charges—I think I have a slight recollection touching on it.

Q. Have you any recollection that he was asked for specifications? A. I have a recollection of it slightly; that is about all; I can't really tell you.

Q. You confined your action to a paper investigation, did you not? A. Mr. Moss in those matters excuse me. I don't want the committee to think that I am deviating from the matter at all. The reports touching on that will show for themselves.

The Chairman—All we would like to have is your personal recollection.

The Witness—These things are so long back that they slip my memory some times.

Q. You contented yourself with a paper investigation, did you not? A. I can't say now whether Mr. Matthews was called on for specific allegations touching on his article or not.

Q. I mean, you did not go yourself anywhere to see whether his charges were true or not? You did not go to look for yourself, did you? A. No, sir. I left that to the various commanding officers of the different districts.



Q. And during that whole time you were still standing on the corner of Twenty-eighth street? A. Oh, no, when I was standing on the corner——

Q. I do not mean all day, but that was still your habit? A. No, it is not my habit. It is my habit to stand there before going away in the evening, and perhaps——

Q. You have already enlightened us on that habit, and there is plenty of proof on that subject too? A. There is proof that I have been in and out on the corner when I have been getting to my home.

Q. You have had time to breathe the fresh air according to your usual habit? A. I have stood and smoked a cigar.

Q. You did not take that time to go and look for yourself? A. I look around the city and I don't see anything going on wrong, and even could not touching that article in the paper.

Q. Even now you look around the city a good deal and see nothing wrong. Is that so? A. That is so. •

Q. Do you go down on the Bowery? A. Occasionally.

Q. Do you go through the Tenderloin precinct? A. Occasionally.

Q. Or do you avoid that? A. No, I don't wish to avoid anything. I go all over.

Q. And you do not see anything wrong now? And have not? Do I understand you correctly? A. That is right.

Q. I wanted to show you a little advertisement that I had from the Manilla Hall to go down there and see the rag-time, and the Ki-ki and such things as that. Do you know what they are? A. No, I have never seen them.

Q. Do you know what it is?

The Witness—The rag-time?

Mr Moss—Yes.

A. It is a dance, I believe.

Q. What kind of a dance? A. I couldn't tell you.

Q. Is it a good dance? I mean a moral dance? A. They say at times it becomes vulgar.



Q. Is there any time that you have ever heard when the rag-time dance was not vulgar? A. Yes, sir, I have heard of it in the Manilla.

Q. Did you ever hear of it in the Manilla when it was not vulgar? A. I caused, I think, an arrest or two or three to be made in the Manilla, and also made a request on the excise board to break their license. They took it away and granted them a club license, and they continued on the performances.

Q. You admit that so far as the Manilla was concerned Mr. Franklin Matthews was right, do you not? A. I couldn't say at that time whether it was right. I made two or three arrests.

Q. What about those male degenerates that frequent the Manilla. Did you ever hear about that?

The Witness—Male degenerates?

Q. Do you not know what a male degenerate is? A. I presume I understand what you mean.

Q. Have you ever heard about their frequenting the Manilla? A. I have heard about people of that class frequenting those places, yes, sir.

Q. The Manilla? A. The Manilla.

Q. Have you heard, then, that there are male degenerates upon the Bowery in sufficient number to be noticeable? A. No; I have not heard that.

Q. Have you heard of the Paresis Hall? A. I have heard of that.

Q. What have you heard about Paresis Hall? A. Touching upon the degenerates that you spoke about that frequent there.

Q. That is a place that is noticed because it is frequented by those persons, is it not? A. That is presumably the reason it gets that name.

Q. And the men that go there are noted characters and are known by women's names, are they not? A. I believe they are.

Q. You have heard that, have you not? A. I have heard that.

Q. In that particular is the charge of Franklin Matthews correct? A. I don't know whether he refers to those things. I can't recall them as I say.

Q. No; but the general term of New York being in an immoral condition? A. Those places have been given police attention right along.

Q. You evade the question every time, but I am willing to have you do so? A. I don't wish to evade the question.

Q. You do not answer the questions. It is worse for you than for me? A. I don't want you to infer that those places that you speak of are, because they are under police surveillance.

Q. What particular attention has been paid to Paresis Hall within the last week? A. Arrests have been made at various times.

Q. Paresis Hall? A. I have been giving those places special attention myself.

Q. Have there been any arrests there? A. Within the last week?

Q. Within the last week? A. I can't answer that question.

Q. Do you know where it is? Such a thing is a notable thing in the city, a place where these miserable beings congregate in the evening; and even you, with your dense condition of mind, know what I mean? A. They are just as liable to walk out of there and go to the Fifth Avenue Hotel.

Q. You have admitted that you know where Paresis Hall is. Where is it? A. On Fourth avenue. I have never been there.

Q. Whereabouts on Fourth avenue? A. Around Twelfth or Thirteenth street or up that way. I ain't positive about that.

Q. Do you get that from the reports? A. Reports will give you an account of any matters touching on any matters of that kind.

Q. You do not know anything about it, do you? A. I don't know exactly where that hall is. I have heard of it as I state.

Q. Why do you not, as chief of police, when you hear of a hall notable for these filthy and abominable practices which have no defender anywhere in human civilization, why do you not go to it and stamp it out? A. I have done so.

Q. What have you done? A. Placed them under arrest.

Q. Who have you placed under arrest? A. The proprietors of those places.

Q. Do you know what they do is a felony (I mean the individuals) punishable by imprisonment for twenty years? A. I don't recollect having frequented those places, and I don't know anything of that kind in it.

Q. You have never heard of their giving circuses around that neighborhood? A. No, sir.

Q. Never heard of it? A. No, sir.

Q. And you think it is around Twelfth or Thirteenth street? A. Well, I——

Q. Who have you heard that information from? A. My men have looked after Paresis Hall, and I don't know whether the Palm——

Q. The Palm is another one? A. Yes, sir.

Q. And the Black Rabbit is another? A. Where these people frequent.

Q. And there came out a police report that the Black Rabbit had been closed up, did there not? A. Yes, sir.

Q. Was it closed? A. It was closed.

Q. How long? A. That I can't say.

Q. A few days? A. I don't think those people frequent that place now.

Q. Do you not? A. I do not. A colored man has got that place now.

Q. Hank Anderson? A. I think that is the man.

Q. Who is Hank Anderson? A. I couldn't tell you that.

Q. Do you not know him? Do you not know that Hank Anderson has been a notorious character and runner of most notorious disorderly houses for many years past? A. I have heard something touching of that kind.

Q. A very prominent man in the Democratic party. You ought to have heard of him? A. I don't know him.

Mr. Moss—I did not ask of him as a Democratic party man keeping those places, except that there might be some association of ideas by which you might remember him.

The Witness—We keep stamping those people out, but they keep giving them new licenses.

Q. I am not talking about the department but about you. What have you done, who has time enough to stand on the corners and enjoy the fresh air for hours while New York is full of moral contagion? A. I have caused investigation to be made touching on each and every one of them, where complaint has been made.

Q. Who has investigated them? A. Inspectors of the districts.

Q. When their reports come in and they say it is all clear, you are perfectly satisfied? A. I send my own men on my staff to see whether it is correct or not, and they report to me from time to time, every night and daily.

Q. Do you know that young boys get into those places easily? A. I have never heard of it.

Q. Do you know that boys and girls get into these dance halls on the East Side, where these immoral dances are performed? A. No, sir.

Q. Do you know that boys and girls have been seen many times in the Manilla watching these horrible things? A. No, sir.

Q. You never heard of it? A. Only on one occasion I heard of a couple of girls coming out of there, that it was a question of their being girls.

Q. While you were denying these charges that Mr. Matthews made and that were reiterated by others, the Gerry Society were taking ruined young girls out of the houses on Allen street and prosecuting people against whom your department did not make charges? A. There may be something of that kind. There may have been a matter of record. The police may have assisted the Gerry Society. The records will show.

Q. Why have they not found these things out themselves? A. They would if they were called on.

Q. Why have they not done these things themselves? A. The Gerry Society may have had some information touching on it, wherein the police would not know at the time.



Q. Do you suppose any sensible person would take any information to you at this time, if they wanted to have a disorderly house broken up? A. People may complain sometimes, and then——

Q. What about the lady who has been complaining for a long time about the Lucy McCarty house next door to her? A. That place has been given attention right along.

Q. What kind of attention? A. We can't break in the door.

Q. Where is Lucy McCarty? A. I don't know where she is. I have had my men go there.

Q. Where is it? A. Your society men have been there, and my men have been there.

Q. Where is it? A. Two hundred and two West Forty-sixth street.

Mr. Moss—I do not know whether it is my society now or not.

The Witness—The matter has been given strict attention.

Q. Of what good is your strict attention? A. That attention that I mean we have been trying to get evidence any way we could get at them honestly.

Q. You know that because of the long and fruitless complaints made by that respectable lady next door to Lucy McCarty—complaints made to you and to the department—that woman has been obliged to turn to a private society to get from them the relief that she cannot get from the police department? You know that, do you not? A. I know the private society has no evidence against the place, letting alone the police, and then they refer the matter to us.

Q. Of course they do, and they mean that you shall do your duty? A. I try to do it, and we will, when we get the evidence against the place.

Q. What do you do to get the evidence? A. Send men at various times of the day and night to see if they can get in.

Q. And they go up with all the appearance of policemen and knock on the door, and they say "Please let us in," and they are turned out? A. Men you won't take for a policeman.



Q. But still the drunken men that want to get into Lucy McCarty's go up on this respectable lady's stoop, and hammer on the door and almost draw her bell out, and still do it, until two or three o'clock in the morning? A. No, sir.

Q. Why do you not put a guard there, and protect her? A. There has been a guard for the last two or three weeks.

Q. Since the thing has been brought to the attention of the society. Why was it not done before? A. There was no complaint in any way.

Q. She has not complained to you prior to two or three weeks ago? A. No.

Mr. Moss—Well, you have forgotten that too.

By the Chairman:

Q. Do the records show? A. The records may show, but I don't remember any complaint. The society called our attention to this lady's complaint, and she would not have anything to do with us and wanted to deal right with the society.

By Mr. Moss:

Q. Lucy McCarty is a prominent woman, is she not? A. I have heard of her.

Q. She is a powerful woman, is she not? A. Not that I know of.

Q. She has political strength, has she not? A. No, sir.

Q. Are you afraid of the political strength? A. I am afraid of nothing touching on those matters.

Q. What about the places of a disreputable and immoral character in which your friend Senator Sullivan has an interest? What do you do about those? A. Give them police attention, and if we get the evidence arrest them the same as we do the others.

Q. What place have you in mind when you say you send the police to the immoral and disreputable places that Senator Sullivan is in? What do you have in mind? A. I don't know of any that he has.

Q. What did you think of when you answered that question?  
A. I said that if he had any disorderly places I would give them the same attention.

Q. You do not know whether he has any or not? A. Oh, I know he ain't.

Q. You have known him so long and so intimately that you know he would not do anything wrong. Is that it? A. I don't think he would.

Q. Like Mr. Nelson? A. A fac-simile, yes, sir.

Q. He spends a good deal of time at headquarters, does he not?  
A. Who?

Q. Mr. Sullivan? A. I haven't seen Mr. Sullivan in headquarters twice since January.

Q. Mr. Sexton is the man who sees him, is he not? A. I could not tell you that.

Q. What do you know about the Dewey Theater? A. I know there is a Dewey Theater in Fourteenth street.

Q. Have you ever had any complaints about that place, about the character of the performances? A. Yes, sir.

Q. What kind of complaints have you had? A. They have carried on a theatrical performance on Sunday evening.

Q. You have had that? Have you had any complaint regarding the moral or immoral character of the performances? A. I have not.

Q. You have not heard anything about that, have you? You have not even read the suggestive advertisements, have you? A. No, sir.

Q. You have not given that place any attention whatever? A. Only on the complaints that I referred to touching the theatrical shows on Sunday night.

Q. Do you not know that in the construction of the theater and the way the audience is allowed to come in, the fire law is violated? A. I do not.

Q. Have you not heard that charged? A. I have not; the report of the captain would show that, and if such was the case, I don't think they would get a license.

Q. Do you not know that they sell tickets of admission for reserved seats in the aisles? A. I have never been in the theatre.

Q. That is one of the things that you have never investigated and have depended entirely upon the written reports? What about these many resorts in the Tenderloin? Do you know anything about them? A. I have never been in any of those.

Q. Never have been in one of those resorts in the Tenderloin, have you? A. No, sir.

Q. Why do you not run down from that corner of Twenty-eighth street and look in on these places? A. Well, I leave that to the captains and inspectors and hold them accountable for any unlawful acts.

Q. How do you hold them accountable? A. Where I hear any complaint and I can substantiate it that they are not doing their duty, I hold them strictly accountable. I don't hear any complaint from any citizen and that is the reason I can't do otherwise. ●

Q. But you see them in the newspapers, if you read them. Why do you not follow them up? You would not know anything about law breaking unless somebody complained, would you, under the present arrangement? A. Oh, I make investigations with my own men, in and out of those places, and if I find the law has been violated I take action.

Q. But you never have been in them? A. Personally, I have not.

Q. But you do not know anything about them? A. I don't know anything, only reports from the men.

Q. Occasionally somebody gets killed in the Bowery. What do you do about the character of places that get on your own record? A. We make requests touching those places, asking the excise commissioners to break their licenses.

Q. Suppose one of those Tenderloin places advertises in the Morning Telegraph. Does the fact that it advertises in the Morning Telegraph impress you in any way that you have no duty to perform against it? A. I have not heard of anything in the Telegraph.

Q. That is something you do not know about. You do not know about the advertisements in the Morning Telegraph? A. If I hear any complaints or see it in the press, touching on any of these matters, I invariably give it strict attention.

Q. The Morning Telegraph is a Tammany newspaper, is it not? A. I have never read it.

Q. Do you not know what it is? A. I do not.

Q. You do not know the places that are advertising openly in that paper? A. I have never read that paper; it has never been called to my attention in any way.

By the Chairman:

Q. Do you get clippings from it? A. I don't think we do.

By Mr. Moss:

Q. Do you not receive anonymous communications containing clippings of advertisements from the Morning Telegraph, occasionally? A. I have not.

Q. Do you consider that the press, the newspapers, are of importance to a chief of police? A. They certainly are at times.

Q. In many respects they are the most valuable means of information, are they not? A. They are very valuable, yes.

Q. It is not always a question of the character of the paper, is it? A. I recognize any matters, touching on any matter.

Q. Certainly; anything that brings information is a proper thing for you to see and read? A. Yes, sir.

Q. You would not be deterred by the immoral appearance of a newspaper, as chief of police, from reading it for police reasons, would you? A. I don't understand your question.

Q. I am afraid that my brain had a cobweb in it when I formed that question. The fact that a newspaper which might come to you was not a very moral paper on its face would not deter you from delving into its contents, to find out what you could as a policemen, would it? A. Certainly not.

Q. Do you know of any paper in general circulation in the city, which on its face is an immoral paper? A. There is a paper they call the Tenderloin.



Q. Yes; you have heard of a paper called the Tenderloin? A. Yes, sir.

Q. Now, if the paper called the Tenderloin prints the advertisements of the disreputable and law breaking resorts of the city, and gives in its news items the movement of disreputable characters of the city, it is an important paper for a chief of police to have and to examine, is it not? A. I have looked it over several times.

Q. How did you come to look it over? A. Because I thought it was an immoral sheet and I called the attention of the inspector of the district and the captain to it and also called the attention of the commanding officers and Mr. Comstock to it.

Q. When did you call Mr. Comstock's attention to it? A. Sometime ago; I can't tell just how long ago.

Q. Did you ever call the attention of the district attorney to it? A. I think his attention was called to it; I ain't positive; I could not say about it.

Q. Who first drew your attention to that paper? A. Someone handed me that paper; I disremember who it was.

Q. Yes, it was handed to you at police headquarters, was it not? A. I can't say whether it was police headquarters or not.

Q. With a demand signed by Thaddeus D. Kennison, the officer of a certain society, that you should pay police attention to it? A. The communication I don't remember.

Q. You do not remember that? A. I do not remember it; but I remember getting the paper and looking at it.

Q. If you received an immoral paper and that paper showed on its face who the editor and publisher was, and where the publishing office was, and if in that office there were stacks of those papers and copies of the cuts on the wall, do you not think as the chief of police of New York you could make a case against them for selling or having obscene literature? A. I sent out orders touching that matter all over.

Q. Do you not think you could? A. I left the matter in the hands of the inspectors of that precinct, and the captain, as I told you, to see Mr. Comstock and see if they could not get a case against those people.



Mr. Moss—You cannot throw those things off on Mr. Comstock.  
The Witness—The matter was always given attention.

Q. But I suppose, that, as in other matters, you held your subordinates to a strict accountability on that matter? A. I certainly did.

Q. What did that strict accountability amount to? A. Well, they suppressed the paper.

Q. What? A. They suppressed the paper.

Q. They suppressed it? A. That is, to a certain extent. All that matter referred to was cut out of it. I have not seen the paper lately.

Q. Do you mean to say that the paper could not be bought last Saturday on all the newspaper stands in the city? A. The paper could, but not with the facts that had been heretofore in it. That is, with the smutty reading in it.

Q. That is a matter of opinion; but why did you not take the obscene paper, with its pictures, and go and make a complaint before a magistrate and prosecute the man who had been affronting our city with that stuff? A. I don't know whether there was an application made before a magistrate touching on that matter or not. I know I ordered it to be investigated and looked into.

Q. Do you not think it is a serious matter, when a paper of that kind can be found on nearly every news stand, and you can see it in the hands of the children? A. It certainly is.

Q. And when you see a young girl walking up Broadway with a copy of the Tenderloin in her hand? A. That is why I took the matter into hand and ordered an investigation. I don't think anybody called my attention to it.

Mr. Moss—From the number of the Tenderloin for April 1, 1899, I read this advertisement: “\$5,000 will purchase a richly furnished four story dwelling house, long lease, on Forty-sixth street just west of Broadway; suitable for ladies' fine boarding house.” Do you understand the meaning of that advertisement? What is a ladies' boarding house? A. That would be a ladies'

boarding house, and it could be a ladies' house of prostitution. There could be different constructions put upon it.

Q. In the Tenderloin newspaper, in a paper like that, you would not expect to find a respectable ladies' boarding house advertised, would you? A. You might.

Mr. Moss—I admit that has been somewhat toned down.

The Witness—I guess it has.

Q. But still, do you think it is toned down sufficiently to be the medium for a real refined select—— A. (Interrupting). Kept toned down or go out of business.

Q. What about the crimes that have been committed for weeks past all over the city by the proprietors of this newspaper? A. The reading of it of course is a little smutty.

Q. Have you ever read anything more vile than in this newspaper—more vile and suggestive or nasty? A. I don't know as you would call it nasty. It is smutty. You can read between the lines on it, and put your own construction on the meaning of it, and all that.

Q. You will admit that it is so neatly expressed that you must put your own construction on it, and you do put your own construction on it? A. It is very bad reading.

Q. That is fair. I will ask you as Chief of Police, what do you think of the situation in our town when in the organ of the demi-monde there appears published the advertisement for a long lease of a ladies' boarding house? Does it not imply that a person may safely expend his or her money in buying a ladies' boarding house for a long lease? A. You put constructions on that.

Q. Does it not imply to your mind, as Chief of Police? A. Certainly, anybody who might be reading it that way, it might imply that it was meant for a house of prostitution.

Q. Have you noticed in this paper the advertisement that the proprietors will furnish guides to show people over the city of New York? A. I don't know whether I have seen that. I have heard there was something touching on that.

Q. That means to opium joints, does it not? A. Guides to go to any part of the city.

Q. And faro banks and all that sort of things. Would you call the smoking parlors on Thirty-ninth street sights of New York?  
A. To people who go there; people who get that part of their pleasure—to the sights.

Q. They could hardly get there without being demoralized? A. They could sit down.

Q. They are demoralizing places, are they not, fairly speaking?  
A. I have never heard anything out of the way.

Q. Let us have it that way. You have never heard anything out of the way, and the stock phrase that you have never heard any complaints about them? A. They don't misbehave themselves. You may sit down.

Q. Are you sure they do not misbehave themselves? A. I have never heard anything touching the contrary.

Q. You never heard anything touching the contrary? You do not mean that, but it will do. Do you know that copies of this paper have been deposited in the Police Department, with the request that the law be enforced? Do you know that? A. Not that I know of, except that they went before the Police Commissioners.

Q. Did the Board of Police Commissioners ever speak to you about it? A. They spoke to me about it. I also issued orders touching on the matter.

Q. Did they tell you to enforce the law? A. Touching on matters of that kind, yes, sir.

Q. Why did you not arrest the criminal? A. The paper had suppressed that kind of news; and we called the attention of Comstock and didn't think we had evidence enough to make an arrest upon it.

Q. What? Upon the prior issues? A. The prior issues were—I disremember what the issue was.

Mr. Moss:

There is no use in wasting time. I do not want to make any more of them than is necessary; but I refer them to Committee and ask that they be marked in evidence. The Chairman is the

only man I dare pass them to and that is no reflection on the others. I speak only officially.

The outside paper of a bundle of the "Tenderloin" was marked "Exhibit G."

Q. I show you a copy of a letter addressed to the Hon. Bernard J. York and signed Asa Bird Gardiner, District Attorney. Do you recognize that? A. I have no doubt but that is correct.

Q. Look at that, also, which is a copy of an order issued in the same matter, and see if that recalls the thing to your mind? A. That may be a resolution of the Board.

Mr. Moss—I offer in evidence first the letter.

It is marked "Exhibit H," and was read by Mr. Moss, as follows:

"DISTRICT ATTORNEY'S OFFICE, N. Y. COUNTY,

"New York, *December 24, 1898.*

"HON. BERNARD J. YORK,

*"President of the Board of Police Commissioners of the City of New York:*

"Sir:—I have the honor to acknowledge receipt of your communication of the 23d inst., transmitting a copy of a communication of Mr. T. D. Kennison, Secretary to the Executive Committee of the Society for the Prevention of Crime, and two issues respectively dated December 3d and December 10th of a publication called 'The Tenderloin.'

"These vile and obscene publications are clearly a violation of section 317 of the Penal Code, and a misdemeanor. The proper method of proceeding is for the police to make due complaint to a committing magistrate, procure a warrant, and have the defendants held for trial at the Special Sessions. If in the particular instance referred to, it is desired by your board, I will, if the persons who know of these publications by having purchased them will attend at this office, designate a deputy assistant district attorney to attend with such persons before the Magistrate's Court



in the First District, in order to see that a proper complaint is formulated, and when the case reaches the Special Sessions, will see that it is properly prosecuted.

"The two publications referred to are herewith respectfully returned, with a view that the person who purchased them may use them in giving his evidence in the Magistrate's Court.

"It is proper to add that this office is not one for general justice, but to take cognizance of crime after complaints have been duly made.

"I have the honor to be, sir, very respectfully, your obedient servant,

"ASA BIRD GARDINER,

*"District Attorney."*

Mr. Moss—I also offer in evidence the order.

The order is marked "Exhibit I," and was read by Mr. Moss, as follows:

"At a meeting of the police board held March 23, 1899, the following proceedings were had:

"Resolved, That the attention of the chief of police be and is hereby called to the provisions of the Penal Code having reference to obscene exhibitions, books and prints, being chapter 7 of said Code; and he is directed to require a stringent enforcement of such law, and to cause the attention of the commanding officers of precincts to said provision, and to require of them an immediate and rigid enforcement of the same."

"At a meeting of the police board held March 24, 1899, the following proceedings were had:

"Resolved, That the resolution of the 23d instant relative to obscene pictures, etc., be amended as follows: Alter title 10, just before chapter 10, as it appears in that resolution, so that it will read, title 10, chapter 7."

The Witness—If I don't make a mistake, there was an application made before a magistrate to get a warrant to arrest those people, and it was refused to be granted.

Q. To what magistrate? A. I could not say. Of course I have got to refer to the record.



Q. By whom? And what witnesses were taken? A. The papers. At that time Comstock was acquainted with the facts and also Inspectors Thompson and Price. I don't know whether they called on a magistrate or not. I am not sure.

Q. Did they produce testimony that they had bought the paper? A. They certainly could.

Q. Were they the papers of December 3d and 10th? A. That I couldn't say.

Q. Do you know who is the proprietor of the paper? A. I couldn't say from memory. The name is there.

Q. Do you know who is interested in it? A. I do not.

Q. Chief, who is behind it? A. I couldn't tell you that.

Q. Have you no idea? A. I have not the slightest.

Q. Have you tried to find out? A. By investigation of Captain Price. Of course the editor of the paper is there—it states who it is. Other than that I fail to know of anybody who has got anything to do with it.

Q. You know that when a magistrate fails to hold, in a case that the police are very anxious about, they go again to the district attorney—sometimes, where complaints are dismissed; in clear cases, which the police think they have, they go to the district attorney and ask to go before the grand jury, and indictments follow. Was such a course as that taken? A. I don't know whether the district attorney—I can't recall whether it was or not. If there was a report on it, I would like to look at the report and will tell you all about it. Of course I can't be prepared on all these matters that you are ask me, but there are records.

Q. Is there any particular form of law breaking in New York which you have personally investigated with the idea of getting at the exact perpetrator of the wrong, since you have been chief? A. I have investigated with the men in my office.

The Chairman—No; answer personally. A. Personally I have had all I could attend to in my office. I could not attend to outside work.

Mr. Moss—I suppose that is an answer.

Q. You have not made any personal investigations of any particular vice, or crime, or law breaking? A. Personally; no. My staff in my office do that.

Q. I notice that at the time you denied the accusation of Mr. Matthews, and the accusations of others in the same line, Mr. Richard Croker made the same denial. Do you remember that? A. No; I do not.

Q. Do you know of any way in which Mr. Croker may have been possessed of the information in these matters sufficient to give him a personal foundation for denying those accusations? A. I do not.

Q. Did you have any communication with Mr. Croker at that time? A. I did not.

Q. Were any reports sent to him? A. No, sir.

Q. Did he not inquire? A. No, sir.

Q. Did he ask or send word somehow or other to the department to find out what their records, their knowledge was concerning these accusations? A. No; he did not.

Q. Did you authorize him to speak for the Police Department? A. Emphatically no.

Q. Did anybody authorize him to speak for the Police Department? A. He has no occasion to speak for the Police Department.

Q. Why did he? A. I can't tell you that.

The committee then adjourned to Monday, April 10, 1899, at 10 o'clock a. m.

NEW YORK, MONDAY, *April* 10, 1899.

The committee met pursuant to adjournment at 10.30 a. m.

Present: All members of the committee, excepting Mr. Wilson.

Mr. O'Sullivan—I would like to announce to the chairman that Mr. Frank Croker is now in court, and comes here, without being served with a subpoena, voluntarily. I would also like to make the announcement that Mr. Richard Croker desires me to say that he will be at the disposal of this committee at any time up to the 18th of April, when he will sail for Europe, and he will come, without the trouble of subpoenaing, on the slightest indication.

Mr. Moss—Please request him to be here next Friday. I will call Mr. Tostevin.

W. P. TOSTEVIN, recalled, for further examination:

By Mr. Moss:

At the time I testified the other day, I hadn't spoken to you. There never had been any consultation between us. There are some things which I want to explain a little more fully. The first thing I would like to correct is in regard to the testimony that I gave with reference to the day of the interview with Commissioner Brady. At the time I gave it the thought came to me that I was wrong, and I have looked the matter up and I find it was November 12th, instead of December; no date mentioned. I fix the time by my cash book. My personal cash book shows that I paid for cigars at a restaurant a certain sum of money.

Q. Will you tell us how you came into possession of the card from Mr. Con Daly? A. The one that is in evidence?

Q. Yes. A. It is the one I presented originally to Mr. Daly. Upon leaving him I asked him for a card, he took his card from a card case in his vest pocket, handed me his card, and I said to him at the time, "the card you have is somewhat soiled; permit me to exchange cards with you." From that I put my hand in my pocket and handed him another, at the same time withdrawing the one I had presented first.

Q. The card you put in evidence was given to you originally by whom? A. The Con Daly card?

Q. Yes. A. He gave it to me.

Q. That is, the first one handed to you? A. Yes, sir; the first one.

Mr. Moss—I would say, Mr. Chairman, that I have been informed that Mr. Daly, whose presence I endeavored to get at once, but as he was not served till late enough to think about the thing, has denied this accusation. I do not intend to put him on the stand, and I want to give him the benefit of the denial. The reason I do not put him on the stand is that I think the situation is likely to run within the jurisdiction of the district attorney, and I don't want to give to Mr. Daly the protection of a certain resolution that is expressed in the subpoena.

Witness resumes:

I was in the office when the Bingham Brothers came. We did some business with them, the structural iron—the erection of concrete floors and fireproofing the apartment house known as the Hudson, corner of Ninety-fifth street and Riverside drive. I know of similar construction in the city, erected by the Tostevin-Hayes Fire-Proof Construction Company, the New York Free Circulating Library Building. That was not the construction to be done by Bingham Brothers, but a new building they contemplated erecting, in which it was desired to use the same as we erected for them in the building corner of Ninety-fifth street and Riverside Drive. We said to them that, under the present difficulties that concrete construction was having with the Building Department in regard to receiving its approval, that we were doubtful about being able to receive a permit; that we would do all that we possibly could; that it had been intimated to us that Senator Grady's office was a good office for the concrete companies to visit, and that it was morally certain that if they did go there that they would come out with less than what they went in with. We desired to, as we were investigating ourselves at that time on matters relating to the difficulties of obtaining permission on fire-proofing construction. We told the Bingham



Brothers that we would be very happy to have them give us the job. We would put the matter in form and that I or Mr. Hayes would call at Senator Grady's office and ascertain if what we had heard was substantially true, and, if so, I didn't know but what we might go to the extreme of putting down the necessary cash. I would not agree to that.

Q. You told Mr. Bingham that you had been informed that Senator Grady's office was the proper one to go to on matters of fire-proofing. How did you learn that? A. From some of our concrete friends, or a concrete friend at least, Mr. Merrill Watson. We requested the Bingham Brothers, or before making the request the Bingham Brothers stated that they knew Con Daly. Then we said to them, "Can you see Con Daly and ask him if the Tostevin-Hayes system of fireproof construction, as used in the building at Ninety-fifth street and Riverside Drive, will be accepted by the Department of Buildings. They told us that they visited Con Daly; that he told them that it was his opinion that it would not, but that he would see Commissioner Brady, and in a day or two afterwards they called upon him again, and he said that Commissioner Brady had stated no; that it would not be accepted for any buildings in New York. They then informed us that a competitor in business, hearing of the job, had solicited the work, stating that they had assured the Bingham Brothers, that a form of construction, identical with ours in every feature, would be accepted by the Department of Buildings, and thus asking them to give them the contract. That was the form of construction known as the four-inch flat beam. No one makes that; it is open construction, so far as any rights are concerned. That about ended it, except that we have not gone ahead with the job; that other parties are negotiating for the work and we are in the cold as yet. I don't know how soon we may get warm. They may have a change of heart. The New York Free Circulating Library was designed by James Brown Lord, architect. We had previously erected for Mr. Lord, metal lath, furring brick-work, etc., for the Delmonico building, corner Ninety-fifth street and Riverside Drive, or at least Forty-fourth street and Fifth avenue, the brick work forming the plastic effects and ceiling and



finish work. In conversation with Mr. Lord's representative, Mr. Goodwillie, knowing we were in the fireproofing business—Mr. Goodwillie was superintendent for Mr. Lord—in conversation with Mr. Goodwillie, he stated that he desired to use for the New York Free Circulating Library, panel construction, and asked if we could produce construction with that effect. I stated that we could. In a few days after that, in answer to a telephone communication, I called at his office and instructed him the best I could in regard to panel construction. I then reported to Mr. Hayes, as he is the engineer of the company, and Mr. Hayes called upon Mr. Lord and designed the building for panel construction. We desired to use in that construction, a system known commercially among us as the blanket system, consisting of erecting a false centre upon a series of eye beams over which is deposited concrete three inches thick with a metal binder imbedded in the same. After the concrete has set the false centering is removed and the beams are wrapped and metal lathed and plastered. We filed, as I stated, plans, etc., in the department for this construction. Mr. Lord received notice shortly after that that the plans had been approved, subject to the approval of the Superintendent of Buildings requiring tests. As we had had a little similar experience with that approval business, Hayes and I, thought we better investigate and find out what it meant. It looked as if there was a string attached to it, that would be pulled back in a little while, so we visited Mr. Doner, and asked Mr. Doner what it meant. He said it meant what was stated, subject to tests at such a time as the department would desire to make them. Well, after waiting some time in regard to the tests, we asked him in regard to the strength that would be required to develop on this test. He said that was a matter for the department to determine. In view of the fact that we are under contract to complete that building within as short a time as possible, we concluded we would have to substitute some other form of construction, as it would be at least thirty days before a test could be made upon the blanket system that was designed for the building. We then substituted what is known as our four-inch beam construction, the original iron work being furnished by the Cor-

nell Iron Company, consisting of fifteen-inch beams from six to six feet on centres with a girder running down through the centre of the building. The intermediate beams, or these four-inch beams, were laid transversely to the fifteen-inch beams and fastened by a series of bolting, these four-inch beams being spaced by three feet centres. Under these four-inch beams and between the fifteen-inch beams were suspended centerings. Over that we deposited four inches of concrete of one Portland cement, two of sand and five of cinders, rammed that in place, removed the centres and furred the beams, as we term it, with metal lath, as well as ceiling lines, giving and producing the desired effect that Mr. Lord wanted, panel construction. In substituting the four-inch beam scheme for that originally intended we were out, and lost on the job. Instead of making the profit intended, we sunk money.

Q. Now, what is the point of that? A. To delay; tire us out.

Q. Yes, of course. But you have made another suggestion which I do not want to lead you into making, but I remember our conversation about it. Do you remember suggesting to me if a thing was lawful once— A. Oh, yes; that has occurred to us many times, that if this thing is lawful—if it was lawful at that time to pass the four-inch beam construction for the New York Free Circulating Library, why isn't it lawful now? Now, what right have these men—I term that a sort of an uncertainty. They don't seem to know their own minds five minutes. They say yes, to-day, and to-morrow no.

Q. But haven't you found a way? A. Oh, yes. Grease will accomplish a good deal sometimes, properly placed.

Q. Properly placed and in the right place? A. Yes, and in the right place.

Mr. Moss—I wish to state, Mr. Chairman, that the law on this subject—I will put it in evidence later. The law simply provides for terra cotta brick or hard brick clay, or such other construction as the Superintendent of Buildings may approve of. Such other construction—it has been deemed by some persons that have been quite interested that there was a legal complication some-

where, but it all comes to the question of approval of the Superintendent of Buildings.

The Chairman—That is the point. The witness states that they have changed their views from time to time with the law in the same condition.

Mr. O'Sullivan—You mentioned something about the changing condition of the laws, Mr. Tostevin, saying that what was lawful once is not lawful now.

Mr. Moss—He did not say that. He did not say what was lawful once was not lawful the next time, but he said the decision was one way this time and the other way another time.

Mr. O'Sullivan—Will you please let the witness answer?

The Chairman—You misunderstood the witness's statement. He said this when I asked him, that the law is substantially the same now as then, only what they decided one time was not lawful they decided another time was, with the law in the same condition it was then—a question of interpretation entirely.

Mr. O'Sullivan—I was trying to get myself straight on it.

Q. Is it or is it not a fact that the laws relating to buildings are changing all the time with the different fires and other criticising affairs that come up. Isn't that a fact? A. No, sir; not so far as it relates to the present fireproof construction which I am talking about.

Q. Do I understand you to say that the various fires and things that we have do not offer any suggestion as to improvement in the new buildings? A. They do; yes, sir.

Q. Do these facts in any way influence the laws that are framed for the construction of buildings? A. It ought to.

Q. Do you know whether they do or not? A. They do not, not to my knowledge; no sir; not so far as it relates to the subject matter of fireproof construction on which I am testifying. There have been changes made in the building law with what is known as a Tenement House Special Act.

Q. Who changes the law relating to buildings? A. The legislature previous to the new charter.

Q. And since the new charter what new alterations have been made? A. None that I am aware of.

Q. So that practically all the laws in relation to the building department were provided by the legislature? A. Yes; so far as I know.

Q. Had it been usual in the different departments in this municipality to subject to tests this so-called fireproofing material? A. No, sir.

Q. Have you ever heard of any tests for any of this fireproofing material? A. Made by any municipality?

Q. Made by anybody? A. Yes, sir.

Q. And was it very irregular for Mr. Doner to suggest that your material should be subjected to a test? A. I do not know that it was.

Q. You regarded that as coming fairly within the scope of his power? A. Yes; only I wanted to know what the test was.

Q. He did not ask you anything unreasonable in asking you to subject your material to the test? A. Certainly not.

Q. Instead of complying with that request, you avoided it? A. No, sir.

Q. Didn't I understand you to testify you substituted some other method or materials? A. Yes, sir; we told Mr. Doner—

Q. That is the answer to what I asked you? A. May I explain that? We signified our willingness to comply with Mr. Doner's request so far as the test was concerned, but the place of test selected by him was the building itself, and in the thirty days that we had—the thirty days it would require to make that test, our work would have been finished and if the department came into the building at that time and made a test upon the floors as already erected and they were not up to the standard as to strength that would be required, and should he reject the floors the matter would have to be torn out and some other construction substituted, and consequently we could not afford to have the delay in the construction of the building.

By Mr. Moss:

Q. In other words, you wanted the test before you did the work? A. Yes sir; we were satisfied that if he would select the place—any place outside of the building—we would go to the



expense and produce the test, from the time of signing the contract up to the time when we were to commence work, if we could get any definite information as to whether he was going to require us to sustain 100 or 400 pounds per square foot, uniform load.

By Mr. O'Sullivan:

Q. Why then did you avoid making the actual test? A. We didn't have time, and we delayed the architects until they told us we had to go ahead and they would permit no delay as the building must be completed and delivered to the owner before the 1st of October, 1898.

Q. Have you ever subjected that material to a public test since? A. I stated last Saturday I had not, but I stand willing to.

Q. I know you are willing, but you never have? A. We never have; no, sir. We were working under tests made by a previous company of which I was the manager, and Mr. Hayes the engineer at the time.

Q. You state you could have overcome all these objections by grease properly placed? A. Yes.

Q. Have you ever placed any of this so-called grease properly? A. No, sir; I have not.

Q. Have you ever known any member of the building department to be guilty of venality to the extent of accepting grease from any one? A. No, sir; I don't know of my own knowledge.

By Mr. Hoffman:

Q. What fireproofing concern do you represent? A. Tostevan-Hayes Fireproofing.

Q. What is the kind of fireproofing you build? A. Concrete construction.

Q. Now, you have testified here, as I understand, that you went to the superintendent of buildings in reference to the fireproofing in which you are interested; that is correct, is it not? A. Yes, sir.



Q. But was there at any time any specifications filed by you or any tests made in regard to your fireproofing? A. Specifications; not tests.

Q. Specifications, but no tests? A. Yes, sir.

Q. And you say that they were rejected? A. No, sir; that application was approved. It was referred to the board of examiners—approved with the provision “subject to the approval of the superintendent of buildings, with test”—four tests.

Q. You say it was approved? A. It was approved, yes, sir, with the tests.

Q. When was that? A. I cannot recall the date just at present. It was in 1898.

Q. In 1898? A. Yes, sir.

Q. And was it rejected by the superintendent of buildings? A. No, sir.

Q. Did you ever take an appeal from any decision which was rendered by the superintendent of buildings? A. No, sir.

Q. You took no appeal at any time? A. No, sir.

Q. Now, of course, you are interested in your company, are you not, very considerably? A. Yes, sir.

Q. And you have testified here with some feeling, have you not? A. No, sir.

Q. None at all? A. No, sir; I do not want to have any feeling. If I have expressed, or if my tone of voice has expressed any feeling, I do not want to have it said or thought that I have testified with any feeling.

Q. But you have evinced a disposition or feeling that you thought you were hurt, isn't that so? A. I certainly think the business has been hurt, yes, sir.

Q. Now, you have changed the time this morning in regard to the transaction that you claim, or the conversation that you claimed to have had with Daly? A. No, sir; Commissioner Brady.

Q. How is it that you came to change that time? A. From the fact that I referred to my cash book.

Q. You made a very important assertion, did you not, when you first took the witness stand, with reference to this conversation with Mr. Brady? A. That I had visited Mr. Brady, and had a conversation?

Q. Yes. A. Yes, sir.

Q. Didn't you think it was a matter of the gravest importance that you should know the date? A. It didn't occur to me at that time; no, sir. It occurred to me at the time I testified that I might be mistaken in regard to the time, when I was testifying, and thinking of it after I left the witness stand I made up my mind that I would find out the exact date and correct it this morning.

Q. Now this fireproofing that you represent, or the company whose work you represent, was that work ever rejected by Superintendent Constable? A. No. Yes, it was.

Q. When? A. Under the Expanded Metal Fireproof Construction Company.

Q. This same identical work? A. Yes, sir.

Q. So this was nothing unusual to have it rejected a second time? A. No.

By Mr. Moss:

Q. Now, during Mr. Constable's administration tests were made of all this construction, and finally Mr. Constable approved of it? A. Yes, sir.

Q. And Mr. Constable's approval was disregarded by the new board? A. Yes, sir.

Q. And in giving the time of your conversation with Mr. Brady as the particular time, you said you thought it occurred in December? A. Yes, sir; as I remember it.

Q. You did not give the explicit date in December? A. No, sir.

Q. And after having stated it in that indefinite way, you examined your cash book and found entries which showed that the exact date was the 12th of November? A. Yes, sir.

By Mr. Hoffman:

Q. Why didn't you find that out before you came on the witness stand? A. I will say in connection with that that I received the subpoena to appear before this committee at about four-thirty Friday afternoon. We have a number of men at work; our payroll ends on Friday night. I have to look after the construction and financial end of the business—look after payrolls and office work, bookkeeping, etc., as well as estimating. We have our business, so to speak, between Mr. Hayes and I. We are pretty well occupied.

Q. In short, you didn't have time to look at it? A. No, sir; when I was put on the witness stand I had no idea anything about it.

By Mr. Moss:

Q. You didn't know what I was going to ask you? A. No, sir.

By Mr. O'Sullivan:

Q. Didn't you try to give an impression on last Saturday that you were practically driven out of business by this scheme of the building boards or building department? A. We are.

Q. And now you talk about the large number of men you have employed? A. Quite true.

Q. So you were not driven out of business? A. We are, but you are talking about another matter. Look at our card and you will find our business is not confined to fireproof construction.

Q. This card reads, "The Tostevin-Hayes Fireproof Construction Company, Consulting and Contracting Engineers"? A. Yes, sir.

Q. "Fireproof floors and partitions, suspended ceilings, shafts, bulkheads, fireproofing for columns and girders, iron work for buildings." It seems to deal mostly with fireproofing? A. It deals with fireproofing, but not the question you are talking about.

Q. You use the term "engineers" in the plural. Are you a civil engineer? A. No, sir.

Q. You, Tostevin and Hayes, are consulting and contracting engineers; that should be singular? A. Mr. Hayes explains that by "C. E." on the card after his name.

Q. How long before the retiring from office of Mr. Constable did he accept the work that you mentioned. A. December 27th, 1897.

Q. Three or four days before he retired from office? A. A few days; yes, sir.

By Mr. Hoffman:

Q. How long had he rejected it before that? A. To answer your question I will state—it was during his administration——

Q. Was it in the early part of his administration? A. Yes.

Q. And he finally accepted it three days before he went out of office? A. Yes, sir.

GEORGE S. HAYES, recalled for further examination:

By Mr. Moss:

Q. There was a matter I overlooked which I wish to direct your attention to, the matter of the Catholic Protectorate building. Did you have a conversation with the contractor of that building? A. Yes, sir, with Alexander Whan. That conversation about the awarding of the contract. He said that—he told me that while we were low on the estimate for the fire-proofing, and while he was perfectly willing for us to apply to the board of examiners for a permit for it, he said he had been told by another company that was competing for it that there would not be any use for me to try to get it, or anybody else, that they had that contract fixed previous, and that he had been to the architect——

Q. Did you say you were the lowest bidder for the work? A. Yes, sir.

Q. And he told you, as I understand, that even though you were the lowest bidder, another company, bidding higher than

you, had the matter fixed and there would be no use? A. They told him that; the company told him that; the Columbian.

Q. Using the same kind of fireproof construction as yourself?

A. It was the concrete system.

Q. Open to the same objection made by the Building Department to yours? A. Yes, sir.

Q. Was there anything further in that conversation? A. We had a conversation on the same lines with the architect.

Q. Stick to Mr. Whan for a moment. Was there anything further said in the conversation with Mr. Whan about what the Columbian Company was going to do? A. They said they had the department fixed.

Q. Didn't they say something about compelling persons? A. They told him he would have to do business with them.

Q. Tell about the conversation with the architects? A. We put in a petition for that job, and in doing so had to get the architect's signature to the petition, and the first petition was rejected or laid over under the statement that the information was indefinite, and of course I had to go to the architect a second time and get him to sign a second petition; the architect at that time told me that the Columbian people had told him they had the matter fixed, and that he did not think that there was any use of us applying, but I had applied, and I appeared before the Board of Examiners when the petition was heard on the next Tuesday, and told them that I was there to explain anything that they wanted to know about the construction. They asked me nothing, except trivial questions, and then Mr. Sam McMillan told me,—he said why don't you use the Columbian system—Sam McMillan is a member of the board of examiners. I told him, "We can't use the Columbian system because we have our own." "Oh," he says, "You can't." "Well," he said, "Why didn't you apply before?" I said we didn't ask the board to give us a show until we had the contract; we didn't make the board needless work. "Well," he said, "you might as well go to sleep in New York;" this board considers the Columbian system better than your's, and so I went outside and told Mr. Tostevin about it.



The architect I speak of, I think, was Mr. Miller; the firm is Farnsworth & Miller; I don't know which it was; I think Mr. Miller.

By Mr. Hoffman:

Q. Where do you live, Mr. Hayes? A. New York, No. 27 West Fifteenth street.

Q. Did you have your fireproofing tested at any time? A. I think I can straighten this whole matter up in this way: Under Mr. Constable, all the companies engaged in what we call the patent fireproof system, which includes concrete, plaster of Paris and wire construction were tested, and our system was tested by a man named Thompson.

Q. You didn't have it tested under the present administration? A. Yes, it has been tested, but by another company.

Q. I mean your fireproofing? A. Our fireproofing is not our fireproofing; it is a common marketable product.

Q. Was your matter submitted to the board of examiners? A. In what way?

Q. In regard—did you make any application to the board of examiners to have your fireproofing—the company which you represent—have it tested, and make application for its use? A. I do not know that the board of examiners were appealed to in that case. I am quite sure they are not there for that purpose.

Q. You never took an appeal to the board of examiners? A. We never had a chance.

Q. You had the right? A. We had made the test.

Q. You had the right to take an appeal? A. Why should we appeal. We had made tests. What appeal was there; the facts were there.

Q. You have not answered the question? A. You are not asking me a fair question.

Q. I ask you whether you have taken an appeal? A. It was not necessary; we had made a test, and the facts were there.

Q. That is all I want to know, sir.

The Chairman—Anything further, Mr. Moss.

Mr. Moss—Yes, one moment. What was the company that made the test? A. It was tested, I believe, within the last four months at One Hundred and Twenty-ninth street and Fifth avenue in a construction that the Columbian Construction Company are building.

Q. And I understand you to say that the system is a system that anybody can use? A. Yes, recognized in Germany years ago.

Q. There is nothing peculiar about it as between the different companies that employ it? A. It is a common sense theory of strength.

Q. It means simply cinders and certain other substances compacted together? A. Yes, sir; and every engineer recommends it.

FRANK H. CROKER, sworn:

By Mr. Moss:

I reside at No. 5 East Seventy-fourth street; I am a son of Richard Croker; I am in business now; I have been in business since January; I was twenty-one years old last September. I am a stockholder in one of the Roebling companies, the Roebling Construction Company. The capital stock of that company is 500 shares at \$100 a share; I am not interested in the larger company; I have no relatives interested in the larger company.

Q. You hesitated a moment, were you thinking of something? A. No, sir; thinking of my answer, that was all.

Q. That is all right. Of these 500 shares, how many shares do you own? A. One hundred and seventy. I cannot tell you how many Mr. Hinkley owns; he does not own as many as I do; I cannot tell you whether he owns as many as 100 shares; I can't tell you who Mr. Hinkley is; he lives at Poughkeepsie; he comes to the company's office once in a while; I cannot tell you whether he is chairman of a political State committee; I cannot tell you whether he is on a political State committee; I know nothing

about that; Mr. Hinkley's first name is James, I think, James W., I think.

Q. How is it you don't know Mr. James W. Hinkley's political relation? A. I never interested myself in them; I know him pretty well; I talk with him quite frequently; I haven't talked with my father about him.

Q. Who was it proposed to you that you should go into this Roebling Construction Company? A. Well I proposed it myself.

Q. Who did you propose it to first? A. To my father.

Q. What did you know about the Roebling Construction Company? A. I knew they had a very good name in New York.

Q. There are other companies that have good names too? A. Yes, sir.

Q. Some of them much larger and more prosperous, with a larger capital than fifty thousand dollars; what gave you the idea of going into the Roebling Company? A. I understood they had a very good name, and I wanted to get in as good a company as I could. I thought that was about as good a company as any I could get in with.

Q. How did you learn of that company? A. I hear of them through being the builders of the Brooklyn bridge.

Q. You have been attending college? A. Yes, sir.

Q. When did you leave college? A. Last June.

Q. Did you adopt any special course? A. No, sir.

Q. Have you studied in any particular line, medicine, engineering? A. No, sir.

Q. Do you know anything practical about engineering? A. Not much.

Q. About the strain of cables? A. No, sir.

Q. And the weight of walls and strength of foundations? A. No, sir.

Q. Do you know anything, or do you know anything particularly practical, about the responsibility that attach to those who build such structures as the Brooklyn bridge? A. I knew they had big responsibilities.

Q. Responsibility of human life? A. Yes, sir.

Q. Vast numbers of people traveling over that bridge, people living in hotels and in houses which are fireproof—supposed to be fireproof; did you ever think about those things when you were considering the matter of entering the Roebling Company? A. Yes, sir.

Q. Do you now know anything practical about fireproof construction? A. I know a little. I know a little about constructing; I have only been in the business two or three months.

Q. You have been studying it, have you? A. I won't say I have been studying it; I have been looking it up and learning about it.

Q. But when you went into that line of business you had no insight, particularly in fireproof construction, as an art or science, had you? A. No, sir.

Q. Are there not other things more interesting to you than fireproof construction; other classes of business? A. No, sir; not anything else that I thought of at that time.

Q. Had you no preference? A. No, sir.

Q. No choice in the matter of profession or trade or business? A. I simply wanted to get in with a good company who had a good name.

Q. Who did you talk with about that company before you spoke to your father? A. Nobody at all.

Q. Where were you when the thought first came to you that you would go into the Roebling Company? A. Where was I?

Q. Yes. A. I cannot tell you just where I was. In what part of New York city?

Q. Yes. In what particular place? A. I don't remember. I may have been at the Democratic Club when I spoke about it.

Q. Wasn't you there? A. I wouldn't swear to it; no, sir.

Q. Is it your impression you were there? A. I may possibly have mentioned it there; or mentioned it along Fifth avenue.

Q. You seem to think it was somewhere in that neighborhood, do you? A. Yes.

Q. What were you doing when you first thought of it? A. Nothing.

Q. Who were you with? A. With my father, when I spoke to him about it.

Q. You were with your father at the Democratic Club when the idea first came into your mind that you would go into the Roebling Company? A. Yes, sir.

Q. Now, what had you been talking with your father about that made you think of the Roebling Company? A. I had been talking about going into business.

Q. You hadn't thought about the Roebling Company before that, had you? A. No, sir.

Q. Nobody had mentioned to you before, had they? A. I knew of the company.

Q. But you hadn't had any serious thought of going into the Roebling Company before that conversation, had you? A. No, sir.

Q. And you say you were talking about business at that time. What business were you talking about? A. Talking about the idea of going into business; I wasn't talking of any particular business.

Q. What other kinds of business were discussed between you and your father, besides the Roebling business? A. That was about the only business discussed. He wanted me to choose for myself.

Q. He wanted you to choose for yourself, then and there? A. No, sir; not then and there.

Q. He asked you that—to choose for yourself, and that was the first time that the Roebling matter had come seriously into your mind? A. Yes.

Q. So you want us to understand that right then and there you plumped out that you wanted to go into the Roebling Company? A. No.

Q. How did you do it? A. I simply mentioned I had heard the Roebling Company was a very good company, and I thought it would be a good thing to get into that company if I could.

Q. He knew what the Roebling Company was the moment you spoke of it, didn't he? A. I think he did; yes, sir.



Q. Of course. And when you mentioned the Roebling Company he had no objections to it, did he? A. He did not say one way or the other.

Q. Didn't he mention the Roebling Company at all in that conversation? A. Certainly he mentioned it when I spoke to him about it; he mentioned it in answering me.

Q. You didn't talk with any one else about that Roebling Company, did you? A. I may have talked at home about it.

Q. Yes; and what Roebling Company was it that you wanted to get in; was it the original company or the new company? A. It was the original company, John A. Roebling's Sons.

Q. It was the original company, the large concern which does bridge building and such things as that? A. Yes, sir.

Q. You knew that was a close corporation, didn't you? A. I didn't know much about close corporations.

Q. Didn't you know the general reputation that the stock of that company is held in the Roebling family, and held very choicely? A. I didn't know much about the stock at that time.

Q. You hadn't gone as far as to know anything about the stock of the company when you proposed to your father that you go in it, had you? A. No.

Q. Did you ever know of that stock being listed on the stock exchange? A. No, sir; I never knew much about any stock.

Q. Did you ever hear of that stock being sold by Mr. Meyer, Peter F. Meyer, at the sales of stocks that he holds, auction sales? A. I said I never noticed any particular stock.

Q. I know that is your impression. But perhaps I can remind you of something. Did you ever hear of any of the Roebling stock being sold by Mr. Harnett at his sales? A. I don't know him.

Q. You know Mr. Meyer? A. Yes, sir.

Q. He is your father's partner in the real estate business? A. Yes.

Q. He has real estate salesrooms at No. 111 Broadway, has he? A. I don't understand your question.

Q. I say, Mr. Meyer and your father have a real estate sales-room at No. 111 Broadway? A. I can't tell you about that.

Q. You don't know about that? A. No.

Q. You put your mind entirely into this business? A. Yes, sir.

Q. You didn't mean when you talked with your father about going in the Roebling Company that you would go in to the big company as bookkeeper, or financial clerk, or stenographer, or as an engineer or in any subordinate capacity, did you? A. Yes, sir.

Q. Did you have in mind going in as a subordinate? A. Yes, sir.

Q. Taking employment on salary? A. Yes, sir; I was willing to go in and learn the business.

Q. Then you did not contemplate becoming a stockholder in the corporation when you spoke to your father, did you? A. No, sir; not right away. I wanted to become a stockholder after a while, if I could.

Q. How did it occur to you that you could select a corporation whose stock was not for sale, and about whose stock you knew nothing, into which you might perhaps find entrance as a subordinate on a salary, and become a stockholder; how did you think you could do that? A. I did not know the stock was not on sale.

Q. Do you mean to say you thought about the stock the first time you had that matter under consideration? A. I told him I might possibly go into the company.

Q. Did you think about stock then? A. Yes, sir.

Q. How did you think you would get that stock? A. By paying for it.

Q. How much did you pay for this stock you have? A. Seventeen thousand dollars.

Q. And to whom did you pay it? A. Paid it to the treasurer of the company.

Q. By a check? A. Yes, sir.

Q. Did the check come back? A. Yes, sir.

Q. Have you got it? A. Yes, sir. Father paid the check. He gave me the money for it and I gave them the money.

Q. You can get that check for us, can't you? A. Yes, sir.

Q. Will you send it to me? A. I paid——

Q. Did you say you would? A. I paid \$17,000 of the money. My father gave me the money and I paid the treasurer of the company.

Q. Then you didn't pay the treasurer a check? A. No.

Q. Then why did you say anything about a check? A. I thought you meant give me a check for it.

Q. Now, when I asked you to get me the check, then you didn't pay it with a check. Now I don't want to take any advantage of you, but you led me right along and took considerable time. A. I didn't understand your question.

Q. I think I put it very clearly. Now we have it that there was no check? A. Yes, sir. Not that I know of.

Q. It was simply, the money was paid into the treasury, to whom? A. To the treasurer.

Q. Who was he? A. Mr. Frank O. Briggs.

Q. Well, we have got a little ahead of the story, I think, Mr. Croker. You say nothing was accomplished with your first conversation with your father. You simply suggested you would like to go into the Roebling Company, and he made no answer at that time. You thought you would go in on a salary and work in as a stockholder? A. Yes, sir.

Q. Who was the next person to whom you spoke about it? A. I think I spoke to Mr. Hinkley about it.

Q. How did you come to speak to Mr. Hinkley about it? A. Mr. Hinkley knew Mr. Briggs. He was the treasurer of the company. He knew Mr. Briggs. I think he used to be a classmate of his, at West Point.

Q. But you are not very well acquainted with Mr. Hinkley are you? A. No, sir.

Q. What had Mr. Hinkley to do with the matter then that caused you to go to him? A. He heard my father speak about

this thing and he said he knew some people connected with the company.

Q. Where did he hear your father speak about it? A. At the club.

Q. Was Mr. Hinkley at the club? A. Yes.

Q. Was he the chairman of the Democratic Committee? A. I can't tell you that.

Q. How long have you known Mr. Hinkley? A. I have known Mr. Hinkley,—I first met him about three years ago, I believe.

Q. Have you known him intimately since that time? A. This year was the first time.

Q. Where was that first conversation with Hinkley? A. I think he was at our house.

Q. Was this Roebling matter the subject of any discussion? A. I was in college at that time.

Q. You were at home? A. Yes.

Q. Down from college? A. Yes, I was going to college at that time.

Q. Who was present with you and Mr. Hinkley at that conversation? A. My father.

Q. Only your father? Now please give us all that was said? A. It had nothing to do with me. I wouldn't care to answer that question.

Q. Had nothing to do with you. You said it was about your going into the Roebling Company? A. What, three years ago?

Q. You are thinking about the first time you met Mr. Hinkley. I am talking about the time you first spoke to Mr. Hinkley about the Roebling business. Where was that? A. At the Democratic Club.

Q. Who was present at that conversation? A. Mr. Hinkley and my father.

Q. And yourself? A. Yes.

Q. Those three? A. Yes.

Q. Now state who first spoke about the Roebling business? A. I don't know; we were all speaking about it.

Q. All speaking together? A. Yes.

Q. What did you say? A. I said I would like to go in business; that is all; I didn't say much.

Q. You had already said that to your father. Is that all you said? A. I said I would like to go in business, yes.

Q. That's all. In that first conversation you told about, it was not a matter of very great consequence at the time, was it? It had left the matter entirely indefinite, had it not? You would like to go into business. What reply was made to that? A. My father said he would like me to go in business.

Q. What was the next remark? A. I can't tell you the conversation at all; I don't remember it.

Q. Who first said Roebling? A. I first said Roebling.

Q. That thing was in your mind all the time. Now wasn't it your father that said it first? A. I am the one who said it first.

Q. What did you say about the Roebling business when you mentioned it? A. I said I thought it would be a very good business to get into; they had a very good name in New York. I wanted to get as good a business as I could.

Q. Did you consider all the classes of business they were doing when you were so anxious to get in the company? A. Not particularly.

Q. You knew they were doing fireproofing business, didn't you? A. Yes, sir; I had heard of it.

Q. And by that time you had made some inquiry into their business and the way they did it and what its prospects were? A. No, sir.

Q. When did you first look into the business yourself so as to know whether it was good? A. I went to Trenton one day and went through the works there.

Q. Then you learned they did fireproofing business, didn't you? A. Yes, sir.

Q. Who did you talk with about that fireproofing business? A. Whereabouts?

Q. Anywhere? A. Talked with my father about it. I didn't speak about the fireproofing business.



Q. You just said you did? A. I said I did. I didn't talk particularly about the fireproofing business.

Q. What did you say about it? A. Nothing particular.

Q. What did you say in general? A. I said I understood they did fireproofing business.

Q. You understood that? A. Yes.

Q. How did you understand that? A. I saw them making the material at the works.

Q. Who did you talk with at the works about the fireproofing business? A. Mr. Briggs took me through and spoke to me about the whole business.

Q. And you talked the whole matter over just at that time as to what they did, didn't you? A. Yes.

Q. There was some time before you really went into that business when you discussed the method and manner and means by which it was done, wasn't there? A. I went through the works there and saw where they made the wire and all that sort of stuff, and at that time I expected to go in the works and learn the business.

Q. Now, you know you did not go in the general business. You took up a specialty. Just bear that in mind. Upon your own statement you are not in the wire part of the business, you are not in the construction part, but you are in the fireproofing part. Now didn't you look into that fireproofing matter before you consented to go into a subdivision of the Roebling Company, devoted entirely to fireproofing? A. I went through as much as I could. I couldn't look into it much; I didn't know much about it.

Q. Now you felt when you came out of college and reached your twenty-first birthday that you were ready to go into the business world, didn't you. You thought you were fit for it? A. I didn't feel as if I was exactly fitted for it. I thought I would do the best I could.

Q. You was willing to do it. You believed you could do it, and you have always learned that before a man undertakes his life work he better find out what it is and how to do it? A. Yes.

Q. Now, of course, the life work you have taken, being the development of the fireproof construction company, you looked into the fireproof construction before you leaped, didn't you? A. Yes.

Q. Now who was it that explained the fireproof business to you first? A. The Roebling people.

Q. Did they deal fairly with you? A. Yes, sir.

Q. Did they tell you everything about it? A. Yes, sir.

Q. And in the light of all that has transpired since, were all their statements to you fair and square? A. Yes, sir.

Q. You have no fault to find with them? A. No, sir.

Q. Then, Mr. Croker, you learned, you say, in the light of all that has transpired the statements were full and fair? A. Yes.

Q. Then you learned, Mr. Croker, that the kind of fireproof business they were doing was the kind that was not allowed generally to go through the building department of New York, didn't you? A. I learned that afterwards; yes, sir.

Q. But you told me, in the light of everything you have discovered since, the original statements made by these people were fair and square? A. Yes.

Q. Now, if before allowing you to jump they had made representations which concealed the fact that their mode of fireproofing was in bad odor in New York, and allowed you to put your money in it, it would have been a misrepresentation? A. They never said it was in bad odor. I don't think it is now.

Q. Of course it is not now, for their particular brand. A. It wasn't then, either.

Q. Have you learned—do you know that the concrete system of fireproofing has not been considered the proper system in New York city? A. No, sir.

Q. You never heard that; before you went into this company you didn't know that the building department had refused to pass fireproof construction of the concrete kind? A. No, sir.

Q. Have you never heard that the concrete system of fireproofing has not been passed by the building department of New York;

have you ever heard that? A. I have heard since that it was mentioned in the building law.

Q. That there was trouble about it and that it was not passed; you never heard of that before; do you mean to say that that matter was withheld from your knowledge while you were negotiating with the Roeblings about coming in? A. I did not go into that matter with them.

Q. You never went into that. Now don't let us get too far ahead of the story. Let's go back to that conversation—that second conversation, when you and Mr. Hinkley and your father were present talking about the matter. You said again you wanted to go into the business and you suggested the Roebling company. That is the way you testified. Now tell the rest of that conversation. A. Mr. Hinkley said he knew Mr. Briggs and that he would speak to him about it.

Q. Briggs was not anywhere around, was he? A. No, sir.

Q. Is that all that was said, that they would see Mr. Briggs—that Mr. Hinkley would see Mr. Briggs? A. Yes, sir.

Q. Had your father and Mr. Hinkley any other business at the club that night? A. I can't tell.

Q. Did Mr. Hinkley come down particularly to meet your father and talk about this matter? A. No, sir.

Q. At the time no suggestion was made that Mr. Hinkley would go with you, was there? A. No, sir.

Q. When was the first conversation about this Roebling matter? A. I can not tell exactly when it was.

Q. Was it at the same place? A. I cannot tell you exactly where it was; we had three or four conversations.

Q. Was it nearly at the time of the second, or was it a long time after the second conversation? A. It was about the time of the second conversation.

Q. Close to it. Who was present at that third conversation? A. I think just Mr. Hinkley and myself.

Q. Only Mr. Hinkley and yourself? A. Yes, sir.

Q. State what was said by you both. A. He said that he had seen Mr. Briggs and that they wanted me to come over to the

works in Trenton, N. J., and go through the works and see what I thought of them.

Q. Was that all that was said? A. That was about all.

Q. Did Mr. Hinkley tell you what he said to the Roebling people about you? A. I don't understand the question.

Q. Who was present at that third conversation? A. Mr. Hinkley and myself.

Q. Did Mr. Hinkley tell you what he told Mr. Briggs about you? A. No, sir. He said he had spoken to him and they wanted me to go over and see the works.

Q. That was all there was of the conversation? A. Yes, sir.

Q. What was the next meeting with anybody about this business? A. The next meeting was in Trenton.

Q. With whom? A. With Mr. Briggs and Mr. Roebling.

Q. Did you go through the works? A. Yes, sir.

Q. What did you see there? A. I saw them making wire.

Q. Is that all you saw? A. Making wire and wire cloth; that was about all.

Q. Was it your intention then to go in the wire cloth and wire making business; you were not thinking about the wire cloth? A. I was not thinking about any particular one of their departments; I was thinking of the whole business.

Q. That was what you had in mind, wasn't it, going into the whole business, and you meant to become a stockholder in the whole business? A. I didn't mean to become, I wanted to try to become a part of the company.

Q. Of the whole company? A. Yes, sir.

Q. After looking over the plant what did you do? A. Went home.

Q. The only part of the entire plant you looked over was the wire department? A. That is all they make, is the wire department.

Q. That is all that was being made there? A. That is all I saw being made, was wire.

Q. Did you then think the Roebling business was all wire? A. Yes, sir.

Q. You didn't know then they had any fireproof, did you? A. Yes, I knew they had fireproof, but it is all wire; that is all the fireproof consists of, is wire with concrete over it.

Q. Didn't you see any works for making the concrete and cinders? A. Yes; but they don't make it there.

Q. They just buy the concrete and cinders and bring it to the job, do they? A. Yes, sir.

Q. Did you understand that that wire over there was to be used in the fireproofing business? A. It was used in everything; I didn't know particularly what it was used for.

Q. You did not particularly notice the fireproof part of their business, did you? A. Yes, sir. I noticed they were making wire centering was all. Making wire cloth, and they use that for different purposes.

Q. Your mind was not especially attracted to the fireproof part of it? A. No.

Q. Who did you consult with about what you had seen? A. I consulted with my father.

Q. At the Democratic Club? A. No; I think I consulted at his office.

Q. Where was his office? A. No. 111 Broadway.

Q. Down there with Mr. Mayer? A. Yes, sir.

Q. What did you say to him? A. Told him I had been through the works.

Q. Did you understand what you saw? A. No, not altogether.

Q. No, I didn't suppose you would. What did you go over there for, to make a critical investigation of the plant you intended to invest in and become a part of, or simply to look around in a curious way? A. Just went over to look at it.

Q. Simply to look at what you might become interested in by and by? A. Yes.

Q. What did you tell your father you had seen? How did you describe it? A. Told I saw them making wire.

Q. What did he say to that? A. Nothing particular. Asked me if I liked it.

Q. That was the whole of the conversation there, "I have seen them making wire," "Did you like it?" "Yes." Was that it? A. Yes.



Q. Anything else? A. Not that I remember of.

Q. What was the next meeting; what was the next occasion on which you discussed this Roebling business with any one? A. I don't remember just when the next meeting was.

Q. Do you remember where it was? A. No, sir.

Q. Do you remember who it was with? A. No, sir.

Q. Tell me about the next meeting you remember? A. The next meeting I remember was over in Trenton.

Q. With whom? A. Mr. Briggs and Mr. Roebling.

Q. And what was that meeting; what was the conversation; what did you do; tell us about it? A. They just spoke of forming this company.

Q. They spoke of forming a company? A. Yes, sir.

Q. That is the next meeting you remember after that other conversation with your father? A. Yes, sir.

Q. And then they were all ready to form a company, were they? A. Yes.

Q. Who was it first proposed forming a company in that meeting? A. I don't remember.

Q. Did you know you were going to a meeting at which a company was going to be formed? A. Yes, sir.

Q. Who told you that? A. Mr. Hinkley told me that.

Q. Hinkley, not your father? A. No, sir.

Q. Was Mr. Hinkley's statement, that the company was going to be formed the first that you knew of it? A. Yes, sir.

Q. What did he say to you? A. A company was going to be formed.

Q. Is that all? A. Yes, sir.

Q. Where did he say that? A. I think he said it at the Democratic Club.

Q. Didn't he make an appointment with you to go somewhere? A. Go over there?

Q. No. At the time that Hinkley told you a corporation was going to be formed, you didn't know anything about it until he told you, did you? A. No.

Q. You didn't propose forming a company, did you? A. No.

Q. You hadn't thought of it, had you? A. No.

Q. And were you surprised when Mr. Hinkley proposed it? A. No, sir.

Q. And were you not surprised? A. I wasn't surprised, that's all.

Q. You didn't expect to become a stockholder at once, you told us? A. No, sir.

Q. You only expected to get in in some minor capacity and finally become a stockholder? A. Yes, sir.

Q. Was it proposed to you that you were going to become one of the stockholders? A. Yes, sir.

Q. Didn't that surprise you? A. No, sir.

Q. You had not proposed to any one that you were going to become a holder of stock in a new company, a young man just coming out of college and just beginning business; you were surprised that a proposition of that kind should come to you, were you? A. No, sir.

Q. Was it stated to you how much stock you would have? A. No, sir.

Q. Did you ask? A. No, sir.

Q. Didn't you ask why they were forming a new company? A. No, sir.

Q. Didn't you ask what the new company was going to do? A. Yes, sir.

Q. What did you say? A. I asked what the new company was going to do.

Q. What was told you? A. Going to do fireproofing.

Q. Did you really then know what fireproofing was? A. No.

Q. Didn't really know what it was, practically? A. I know it was protection against fire.

Q. Of course, every one knows; that was in the word. You knew it was a protection against fire, but how and in what way, you didn't know? A. No.

Q. Did you inquire of Mr. Hinkley? A. No.

Q. Did you think it important enough to inquire about? A. No.

Q. Now, Mr. Croker, you are talking up for yourself a business in which you were to embark, in which you are to engage, in which you were to lay the foundation of your own prosperity; as I take it, you did not mean to be in any way a burden upon your father, even if your father was able to provide for you. You meant to go out and make your own way and make your own fortune? A. I meant to try it.

Q. And yet, when it was proposed to you, a thing you never had heard of, or imagined before, that a new company was going to be formed, to do business which you did not understand, and that you were going to be given some stock, and how much you did not know, you asked no questions of Mr. Hinkley? A. No.

Q. Why didn't you? A. Because I knew it was a good company and that any part I could get in it would be all right.

Q. You didn't care how much stock you were going to have? A. No.

Q. Of course, I understand that you were not afraid of any thing, that your father was looking out for you; you were not afraid of it; but I am speaking from the ground of natural curiosity, of a young man ardent and energetic, just starting out in life; why didn't you make some inquiries about these things? A. What things?

Q. The things I have been questioning you about? A. I had made inquiries; I knew what was going on; I was not surprised at being a stockholder.

Q. You told us you did not expect—that you expected to go in in a subordinate capacity and work up, and hear without having done anything, without having said anything, without having interest enough to question anyone, it is suddenly stated to you by Mr. Hinkley that you are to be a stockholder, and that a new company is going to be formed in your honor, and you have not curiosity enough to inquire into the ordinary details of it. I want to know about that and why it was you wasn't curious? A. The company wasn't formed in my honor.

Q. Did anyone have any more stock than you? A. Yes.

Q. Some of the Roeblings did? A. Yes.

Q. Did you know why the fireproof construction business was taken out of the general corporation and made into a separate corporation? A. No.

Q. Did you ever inquire into that? A. No.

Q. They were doing a fireproof work in the old corporation, were they not? A. Yes, sir.

Q. How was it necessary to take the fireproof work out of the general corporation and put it into a new corporation with only a small amount of capital and take you and Mr. Hinkley in? A. I said I never inquired into that.

Q. That is why I say it was done in your honor, because these men already had the business Mr. Roebling had. It was in the original business. Now, outside of the Roeblings, you are the principal stockholder, are you not? A. Yes, sir.

Q. One hundred and seventy shares, and I ask now in all fairness of a man of intelligence, wasn't that company formed in your honor? A. I can't tell you.

Q. You are a little inclined to think it might have been? A. Not any more than I was.

Q. Perhaps in compliment to your father? A. They wasn't looking after any compliments.

Q. Well, after Mr. Hinkley told you that you were to go over there and you had made up your mind to go, how much time elapsed before you went to Trenton? A. I don't understand that question.

Q. Perhaps it is a little involved. How long after Mr. Hinkley spoke to you before you went to Trenton? A. After he spoke to me, when?

Q. About becoming a stockholder in a company not yet formed? A. Not very long.

Q. How long is very long; one day, two days, a week? A. Inside of a week.

Q. Several days, then? A. Yes, sir.

Q. Then you knew Mr. Hinkley had made a proposition to you which was far above anything you had thought of. Who did you talk with about this between the time it was proposed to you

by Mr. Hinkley when he told you you were to go to Trenton and the time you actually went; who did you talk to about it? A. Nobody in particular.

Q. Who did you talk to in general? A. I spoke to my father about it.

Q. What did you say to him? A. I told him I was going over to Trenton to go into this new company.

Q. What did he say? A. He said he thought it would be a very good thing.

Q. That is all? A. All I remember.

Q. Is that all of any consequence in the conversation? A. Yes, sir.

Q. Did you ask him how much stock you were going to have? A. No, sir.

Q. Did you ask him any of the details of the proposed corporation and what it was going to do? A. No, sir.

Q. Do you know whether he knew? A. I can't tell you.

Q. You can't tell that, but you simply told him as a matter of family news, and he said it was all right, and whether he knew anything about it you don't know? A. No, sir.

Q. You don't know whether he understood that business at all, do you? A. I can't tell you that.

Q. You don't know whether anybody else had talked with him about it? A. I know Major Hinkley had spoken to him.

Q. Besides Major Hinkley? A. No.

Q. Well, now we will ask you to recall the meeting at Trenton. When you went into that meeting you didn't know what you were going to do, did you? A. I knew that we were going to form a company.

Q. That was all you knew? A. Yes.

Q. What part you were to take in it you didn't know? A. No.

Q. You might be going to take five shares of stock, so far as you knew? A. Yes, sir.

Q. Or 500, so far as you knew? A. I didn't think they would ask me to take 500.



Q. You didn't think they would ask you to take it all, did you?  
A. No, sir.

Q. Did you have any money when you went? A. I didn't go there with no money.

Q. I mean any considerable sum of money; of course, you had to pay your fare; but did you have any considerable amount of money with you when you went there? A. I don't think that is necessary to answer.

Q. I think it is very proper. You came here voluntarily, and I assume you came here for the purpose of throwing all you can upon this matter. Of course, if you do not answer questions that are material to the matter on which you came, you put yourself in a different position to me? A. Is it material?

Q. Certainly it is. A. Then I will say I had some money; five or ten dollars, probably.

Q. Oh, well; that is all right; you had not over five or ten dollars; now I don't care whether it was in quarters or halves, or anything of that kind. I wasn't prying. I simply wanted to know if you had any considerable amount.

By the Chairman:

Q. I think the witness misunderstood. It wasn't intended to pry into a personal matter at all. He misunderstood the question.

By Mr. Moss:

Q. Did your father go with you? A. No, sir.

Q. Who did you meet? A. I met Mr. Roebling and Mr. Briggs.

Q. Is that all? A. And Mr. Charles Roebling.

Q. Wasn't Mr. Hinkley there? A. Yes, sir.

Q. That is five; any more? A. No, sir; excepting the lawyer.

Q. Now will you state what was done, as nearly as you can recall it? A. They spoke of forming this company and proposed that I take some stock in it.

Q. They proposed it to you. Is that the first time it was proposed to you to take stock? A. Yes, sir.

Q. You were willing to take stock, weren't you, or you were willing not to take stock? A. I wasn't going into the company without taking stock.

Q. You were willing to take a large amount of stock or a small amount? A. No, sir.

Q. What was you willing to do? A. I was willing to take as much as I could pay for.

Q. How did you know how much you could pay for? A. I knew how much I wanted to ask for.

Q. Were not the papers already prepared for signature then? A. No.

Q. Was the company really formed at that meeting? A. No.

Q. It was only discussed? A. That was all.

Q. When you were asked if you would like to go in what did you say? A. I said I would like to go in.

Q. What else was said? A. We talked over the company in general.

Q. Wasn't any amount proposed? A. I don't understand what you mean.

Q. Any amount of stock for you to take proposed? A. Yes, sir.

Q. How much? A. One-third.

Q. Was the amount of capitalization mentioned? A. I can't say definitely whether it was or not; I think it was.

Q. What was said about it? A. They said they proposed capitalizing for \$50,000.

Q. Yes. And you take one-third? Was it then stated you were going to do strictly a fireproof business? A. Yes. They proposed taking up the fireproof end of it.

Q. Simply the fireproof end. Was it stated why they were forming a separate corporation for the fireproofing? A. They thought it was a good business.

Q. Why didn't you ask them at that time to let you go into the original company, not separate the thing out, but let you into the original company; why didn't you ask them? A. I did ask them.

Q. What did they say? A. They said just themselves were in that company.

Q. That is what I asked you in the beginning, that it was an exclusive company? A. You asked me when I first thought of this business, didn't I know it was an exclusive company, and I said no.

Q. How long after that was it when you made the organization? A. Oh, about inside of a week.

Q. At the same place? A. Yes, sir.

Q. What other persons were present than those you have mentioned? A. The same persons.

Q. Were the papers already prepared? A. Yes, sir.

Q. Did you pay for your stock that day? A. No, sir.

Q. Did you sign the papers? A. I signed papers as a stockholder in the company.

Q. The corporation then was practically formed at that meeting and papers signed, wasn't it. You understand all the paper formality was completed at that meeting, did you? A. Yes, sir.

Q. When was it you paid for your stock? A. Oh, I don't know; a week or so afterwards.

Q. Did you pay any money at that meeting? A. No, sir.

Q. Did anybody pay any money in at that meeting? A. Not that I know of.

Q. Was there any voting done at that meeting? A. Yes, sir.

Q. Was there a treasurer elected? A. Yes, sir.

Q. Who was that? A. Mr. Briggs.

Q. Was there a secretary elected? A. Yes, sir.

Q. Who was that? A. Myself.

Q. The company actually started out then at that meeting, did it? A. It was formed at that meeting; yes, sir.

Q. Was it as much as a week before you paid for your stock? A. I can't say; it was about a week, I should think.

Q. How did you arrange to get the money for it? A. I asked my father for it.

Q. What did you say to him? A. I said I wanted to take some stock in that company.

Q. Did you explain to him then that it was simply for the fireproofing business? A. I explained we intended to do fireproofing business.

Q. He said, then, it was limited to fireproofing business, did he? A. Yes.

Q. When you went in that company you did not know what led them to make it simply a fireproof company, did you? A. No.

Q. You went there intending to go into the company, no matter what it was? A. Yes, sir.

Q. So long as it was part of their business? A. So long as it was a legitimate business; yes, sir.

Q. And a part of their business? A. Yes, sir.

Q. Was your father surprised or disconcerted in any way because that was restricted to fireproofing? A. He would rather have me to go in the whole business.

Q. He said so, did he? A. Yes, sir.

Q. He was disappointed because you didn't go into the whole business? A. He wasn't exactly disappointed.

Q. He would rather you did go into the whole matter? A. Yes, sir.

Q. Have you told us all that was said at that meeting with your father? A. Yes, sir.

Q. Then you didn't get the money that day? A. Which day?

Q. The day we have just mentioned, the meeting we are after? A. I don't know which time you are talking about, now.

Q. I am talking about the time you told your father you were to become a stockholder in that company. Did you get the money at that time? A. I don't think I got it that day; no, sir.

Q. During the week you got the money from your father—\$17,000? A. Yes, sir.

Q. Any more? A. No.

Q. And I suppose you went and paid that to the treasurer? A. Yes, sir.

Q. At once? A. I may not have gone at once.

Mr. Fallows—Was it the same day he paid the money to the treasurer on which he received it?

By Mr. Moss:

Q. Did you pay the money to the treasurer on the same day you received it from your father? A. I don't remember.

Q. Did you receive the money in cash from your father? A. Yes, sir.

Q. Seventeen thousand dollars, in bills? A. Yes, sir.

Q. What did you do with it? A. Put it in my pocket.

Q. You carried it in your pocket until you went to Trenton? A. I didn't go to Trenton.

Q. Did you carry it down to Liberty street? A. No, sir; we didn't have any office then.

Q. Where did you go? A. I went home.

Q. You carried the money in your pocket home to Seventy-fourth street? A. Yes, sir.

Q. Where did you keep it over night? A. Kept it in my room.

Q. You kept \$17,000 in your room over night? A. Yes, sir.

Q. Did you go out the next morning? A. Yes, sir.

Q. Put it in your pocket? A. Yes, sir; I think so; I don't remember exactly.

Q. Did you carry it in your pocket all day? A. I think I paid it in the next day.

Q. Where did you go to pay it in? A. Down to No. 121 Liberty street.

Q. Then you paid that \$17,000 in bills, as you had received it from your father, to the treasurer? A. Yes, sir.

Q. Did you get a receipt for it? A. Yes, sir.

Q. Where is the receipt? A. A certificate of stock.

Q. That is all you got; you got no separate receipt, did you? A. No.

Q. And you had no check to show? A. No, sir.

Q. Do you know how your father got that \$17,000 in his possession, whether by check or in what way? A. I didn't ask him.

Q. You don't know whether any check was drawn to get that \$17,000, do you? A. No, sir.



By the Chairman:

Q. Where were you when your father paid you that money?

A. I was down in his office.

Q. Did he have the cash in his hand at the time, or did he send out and get it? A. I don't remember what he done. I went down and sat in one of his rooms and he brought me in the money.

Q. I understood you to say before that he drew a check, as you testified early in the course of the examination. Now, what is your correct recollection? A. I just gave you the correct answer.

By Mr. Moss:

Q. Did your father have the exact sum of \$17,000 ready for you? A. He gave me \$17,000.

Q. Did he take it out of another sum of money, or did he hand it to you in tact? A. Handed it to me in tact.

Q. What kind of bills were they; what denomination? A. I don't remember just what they were.

Q. Were they thousand dollar bills or five hundred dollar bills, or were they smaller? A. I don't remember; five hundred, probably.

Q. Was it a large roll or a small roll? A. Fair-sized roll.

Q. Yes; I think it was a fair-sized roll. Are you sure the bills were as large as five hundred dollar bills? A. I think there were some five hundred dollar bills in there.

Q. Were there any smaller? A. I don't remember now, sir.

Q. It was quite a little roll to carry in your pocket, wasn't it? A. More than I ever carried before; yes, sir.

Mr. Fallows—When was this?

By Mr. Moss:

Q. Can you give us the time? What month was it? A. January, I think.

Q. In January? A. Yes, sir.

Q. What part of January? A. First part, I believe.

Q. And what time of the day was it when you received the money? What part of the day; fore part or afternoon? A. I can't tell you that.

Q. At the time that you paid your money for the stock did you know that concrete fireproofing was not freely passed by the department of buildings in this city? A. I don't remember now.

Q. Now, Mr. Croker, I want you to try to remember, because it seems to me it is an important factor of this case. I have led you carefully along by direct questions on all these matters, and I do not think you can complain of the straightforwardness and fairness of the examination. A. No; I think it is fair.

Q. I do not mean there should be any ground for you to do so. Now, I ask you again, after having thought, did you know at the time that you paid the money for your stock that the concrete system of fireproofing was not freely passed in the city of New York? A. No, I don't think I did know it; I don't remember, Mr. Moss, exactly, but I don't think I knew it at that time.

Q. Did you know there was any trouble about it? A. No, sir; I was not familiar with the fireproofing laws.

Q. You were not familiar with the practice of fireproofing and practical difficulty that there might be about getting the work accepted? A. No.

Q. You knew, of course, that there was a department of buildings? A. Yes, sir.

Q. And you knew there was a law on this subject, didn't you? A. Yes, sir.

Q. And you knew that fireproofing had to be accepted or passed by certain city authorities before floors could be put in a building, didn't you? A. Yes, sir.

Q. Didn't you know that there was some kinds of fireproof construction that were not passed at all at that time? A. Yes, sir.

Q. You did know it? A. I knew there was some not being used.

Q. You knew they were not being passed, is the question I asked you? A. Oh, I didn't know about that.

Q. Did you know why they were not being used? A. I supposed they were not any good.

Q. Did you know that systems similar to the Roebling system were not being used? A. No, sir; I didn't know much about systems then.

Q. Did you know what the Roebling system was? A. Yes, sir.

Q. What was it, as you knew it then? A. It was a wire arch with concrete spread over it.

Q. Only concrete; concrete spread over a wire arch; is that the Roebling system? A. Yes, sir.

Q. Is that the whole of it? A. There is a ceiling, you know.

Q. Of course there is a ceiling, and then the wire arch and concrete spread over it? A. And then there was a flat system without the arch.

Q. Of course, you mean concrete mixed up with water so as to make it pliable? A. By concrete I mean sand and cement and ashes.

Q. When you speak of concrete you mean the substances you generally use composed of these materials? A. Yes, sir.

Q. You knew the other companies that could not do business in this city were using just that kind of foundation, didn't you? A. No.

Q. Didn't you inquire into that? Why didn't you before embarking into this enterprise and sinking your money? A. I had perfect confidence in the Roebling people.

Q. You have already said you didn't expect to have a very large amount of stock; you didn't want to have any more stock than would be paid for by the sum of money you were willing to ask your father for. So you had evidently made up your mind that the sum you did ask your father for was your capital to start out on, and as a proud spirited young man you didn't mean to ask for any more? A. No, sir.

Q. You meant to make your way on that capital? A. Yes, sir.

Q. And it was of the greatest importance to have that capital well founded? A. I meant to put it in the Roebling Company, and I knew as long as the Roebling people were connected I would receive a fair deal.

Q. Didn't you know the Roebling people had had trouble about using their own system? A. No, sir.

Q. Didn't you know that when you put your money in the firm? A. No, sir. I heard they were in the fireproofing business. I didn't know what trouble they were having. They were using the system in New York.

Q. Where were they using it? A. I heard about it being used.

Q. Where? A. I heard about it being used in the Bowling Green building.

Q. Where else? A. That is the only place I think of.

Q. Did you hear of any place where it was not permitted to be used? A. No.

Q. Did you hear that although their bid was \$25,000 lower than any other company they were not allowed to put it in the Syndicate building on Park row? A. No, sir.

Q. All that transpired before you became a stockholder in this new company, didn't it? A. Yes, sir.

Q. You know now that that is a fact, don't you? A. Yes, sir.

Q. When did you first learn that? A. I think I learned it just now.

Q. Is this the first you have heard of it? A. Yes, sir.

Q. Very well. Now you have learned something—that your own business, in which you have invested all the capital you are going to ask your father for, on the great contract they had of \$100,000 or more, for doing the fireproofing on this immense Syndicate building, although their bid was \$25,000 less than anybody else, they were not allowed to make a contract. What do you think of that? A. I have not thought about it yet.

Q. There isn't anything for you to fear about it, is there? A. I don't fear anything.



Q. You are not afraid now that any Roebling work will be rejected, are you? A. Yes, sir.

Q. Are you afraid of that? A. I am.

Q. You said a moment ago you were not afraid? A. Not afraid?

By Mr. Fallows:

Q. Do not fear anything? A. No, and I don't.

By Mr. Moss:

Q. What did you mean when you said you didn't fear anything or were not afraid; what did you mean by that? A. I meant I didn't fear anything; that is all.

Q. Didn't you mean you believed your investment was perfectly safe and that your company was on a foundation and had all the business it wanted to do; didn't you mean that? A. I said I thought my money was perfectly safe in the hands of the Roebling Company.

Q. But if the Roebling Company, which is formed to do nothing but fireproofing, should be prevented by the city department from doing any fireproofing, what would become of your investment? A. There wouldn't much become of it, I guess.

Q. There wouldn't be anything left, would there? A. No, sir.

Q. The value of the stock of your company is in the business it may do, its good name and reputation, and if it is prevented from doing business, then the capital stock is worthless, isn't it? A. Yes.

Q. But you have no fear that your company will be prevented from doing business, have you? A. Yes; they have always done it; I don't know why it should be shut down now. They did it before I joined the company, and they are doing it now.

Q. Yet I have already told you about the contract on the Syndicate building, where they were prevented? A. They are not getting everything now.

Q. Prevented because the fireproof system with concrete was not considered acceptable by the authorities? A. I do not say it is now acceptable by everybody.



Q. You have had no bids or plans rejected since you have been in that company because you used the concrete system, have you?

A. Not that I know of; I don't know of all their bids.

Q. You don't know of any that have been rejected, do you? A. Do you mean going up to the building department?

Q. Yes. A. No, sir.

Q. How is it that the work of your company or of the Roebblings was not accepted in important matters before you went in to the company and is accepted now? A. I don't say they have accepted anything very important; they accepted just as important things before. We have not done a thing for the city since I have been there.

Q. How much salary do you get as secretary. A. Twenty-five hundred dollars a year.

Q. I have a newspaper statement here that the shares allotted to Mr. Hinkley were fifty, Frank H. Croker, of New York, one hundred and seventy, James W. Hinkley, of Poughkeepsie, fifty, Charles T. Roebling, ten, Frank A. Briggs, ten, and the balance to Ferdinand W. Roebling; is that right? A. I think so; I don't know exactly the distribution of the stock.

Q. And in this matter, without carrying these detailed questions to a great length, isn't it a fact that you just paid your \$17,000 right in having confidence that it had been arranged by others in a way that was perfectly safe for you? A. I just put the money in the company; that was all.

Q. Exactly. You just paid it in and the arrangements had all been made by other people, had they not? A. I don't know about any arrangements.

Q. All the arrangements other than what you have testified to as having been a party to, were made by other people, were they not? A. They might have been and I wouldn't have known it.

Q. You don't know it? A. No, sir.

Q. All you know is what you told us, and everything else that was done, if it was done was done by other people? A. All I remember I have told you.

Q. And you went into this matter and put your money into this company in confidence that what others had done was all right? A. Yes, sir.

Q. And you did it because your father thought it was all right, didn't you? A. Yes, sir.

Q. And did you believe that your father understood all of the matters connected with the company and connected with the business? A. I did; if he gave me the money, he must have.

Q. You supposed he had investigated the matter for himself and was satisfied, or he wouldn't have given you the money? A. I thought he had; I didn't know; I thought he had investigated it.

Q. Will you tell me what has become of the \$17,000 dollars you paid into the treasury of the company? A. I don't know what became of it; it went to the bank, I guess.

Q. Where is it now? A. I can't tell you; at the bank I should think.

Q. Has it been drawn from the bank? A. I can't tell you that; we have had expenses at the office, you know.

Q. Yes, of course, but not \$17,000 worth, have you? A. No, sir.

Q. Did you know it went into the bank? A. No.

Q. Has the treasurer made any report showing what was done with the \$17,000? A. We have not had any meeting since.

Q. You have had no meeting since the organization meeting? A. No, sir.

Q. How do you, as a stockholder and the secretary of the company, know about its business if there has been no meeting. A. Only what we have been doing.

Q. Have you any treasurer's report in your office as secretary? A. No.

Q. Has not the treasurer's reported the financial business of this corporation at all? A. The bookkeeper reported.

Q. To whom? A. He has it on his books there. He gave me a report.

Q. Then I ask what has become of the seventeen thousand you paid in? A. I think it is in the company.

Q. Was it banked? Do you know whether that was banked or not? A. I cannot swear to it. I took the treasurer's word it was banked.

Q. Do you think it was banked? A. Yes, sir.

Q. And does it remain there, or has it been drawn out? A. I cannot tell you that.

Q. You don't know that there has been any report of the financial operations of the company that would show it? A. There has been a bookkeeper's monthly statement.

Q. Now, Mr. Croker, you have not concerned yourself at all about the difficulties that this concrete system have encountered, have you? A. Yes, sir.

Q. What bank does your company deposit in? A. Some bank in Trenton, New Jersey. I don't know what bank.

Q. Don't you know what bank? A. I don't remember the name; no, sir.

Q. Look here, Mr. Croker; I think I have been perfectly fair to you, yet I ask you how it is that the secretary of the company don't know what bank the money is put in? A. I don't remember just what bank, I say.

Q. Are you in any other corporations? A. Yes, sir.

Q. Oh, you are? A. Yes, sir. No harm in that, is there?

Q. Not at all. I was simply thinking for a moment that you should not be required to know all the details of one company. I was proceeding upon what was a wrong impression. What other companies are you in? A. One other company.

Q. What company? A. The United Company.

Q. What is its business? A. It is furnishing engineering advice and drawing up plans for contracts; contracts of any kind.

Q. It does contracts? A. It has not done any, but it was incorporated to do contracts all over the country.

Q. What kind of business has that company done? A. Nothing at all.

Q. What was it formed for? A. To do just what I told you.

Q. To do that business. Wait a moment and we will come back to that. Is that the only other corporation you are in? A. Yes, sir.

Q. Aren't you in some other business that is not incorporated?

A. No, sir.

Q. Now I ask you upon this concreting line. Have you taken any interest at all in the difficulty that concrete systems have had to get their fireproofing work accepted and passed? A. Yes.

Q. Then you have learned that it is an important question, haven't you? A. Yes, sir.

Q. Have you learned that it was so important as to give you any fear for your investment in your company? A. Yes, sir.

Q. A little while ago you said you had no fear. Are you still in that position, that you have no fear for your investment? A. I do not fear. I think we have a very good system there, and I know it will come out all right if we get a fair trial.

Q. You are getting a fair trial, aren't you? A. Yes, sir.

Q. You are not making complaints against anybody? A. No, sir.

Q. You haven't been prevented from doing any business, have you? A. We bid for a lot of work that we haven't received.

Q. And you have seen something of the kindly disposition of the government manifested towards you already, haven't you? A. Yes, sir.

Q. You have seen public school specifications printed and sent out to the building trade containing practically the specifications taken from your prospectus and distinctly denominated in the specifications as the Roebling system, haven't you? A. Along with another system.

Q. What system? A. The tile system.

Q. Do you recognize the fact that of all the systems known, your system alone was printed in the public schools specifications? A. Yes, sir.

Q. And printed by name? A. Yes, sir.

Q. And printed with the exact details of construction taken from your specifications? A. To call for our system, you have to print the details.

Q. Of course, so that the name and the details go together? A. Yes, sir.



Q. If there were other details it would not be the Roebling system, would it? A. No, sir.

Q. No other people can build the Roebling system? A. No, sir.

Q. Have you a patent on it? A. Yes, sir. A patent on the wire.

Q. Other people can build the Roebling, minus the wire, can't they; build it with beams? A. Then it would not be the Roebling system.

Q. It would not be the Roebling system, of course not. What is the basis, Mr. Croker, of a fireproof system; what is the important part of a fireproof system? A. It depends on the system.

Q. Fireproofing is a system. It is accomplished by different means. What is the basis of fireproof construction? A. The protection against fire.

Q. That is its result. That is what it is for. But what is the basis of its construction? A. I don't understand the question.

Q. That is a simple question, Mr. Croker, and I address it to one in the business and who has invested his money in the business. What is the important thing in fireproof construction upon which its usefulness depends. What is the most important thing in it? A. The most important thing I should think would be that they would hold a certain amount of weight; a certain load.

Q. Supposing you had an empty building, built with the fireproof construction, filled with beautiful paintings perhaps, but without any weights on the floor, and that big building takes fire and what fireproof construction is put to the test. What is the important point in it? A. Whether it should resist the fire, I should think.

Q. That is it. Now what is the important point in fireproof construction on the concrete plan? A. To resist fire.

Q. Exactly. But what is the material. But what is important in completed matter which your company holds to give it its value? A. What do we claim for the system?



Q. No. What is the thing, the important thing, that which tends the most, to resist fire? A. The concrete.

Q. The concrete. Now we have got it. It is the concrete and in the concrete it is the cinders, isn't it? A. Oh, no.

Q. Aren't the cinders considered the most important element in it? A. The cement is put in to bind the cinders together. The sand is put in to fill the interstices.

Q. But hasn't it been demonstrated that cinders resist fire more than any other substance that can be used? A. Yes.

Q. And these companies, these concrete companies, use a foundation of cinders mixed with sand and cement; isn't that so? A. I suppose they do. I don't know whether they do or not.

Q. And that is not patented, is it? A. Oh, no; that is not patented.

Q. The only thing that is patented is the wire upon which it is placed? A. Yes.

Q. So there is that thing in common between all these fire-proofing companies, that they employ the important element only they have different ways of sustaining it? A. Different ways of sustaining it; yes, sir.

Q. And you have invested your money in the concrete system. You believe it is as good as the terra cotta, don't you? A. Yes, sir; just as good.

Q. Now we come back to the point, that all of these systems using concrete, one system by name Roebling and by specifications from Roebling's plans, is put into the school board's printed specifications? A. By tests that proved it to be a little better than the other.

Q. What tests? A. They have had tests.

Q. When have they had competitive tests? A. I can't tell you.

Q. You don't know, do you? A. I know they have had them.

Q. When? A. I cannot tell you that.

Q. Do you have anything to do with the actual management of the business of your company? A. No, sir.

Q. If I may ask you, what do you do for the twenty-five hundred dollars? A. I am at present learning the business.

Q. You are learning the business and getting paid for learning it? A. Yes, sir.

Q. Now, seriously speaking, you must do something for that salary of twenty-five hundred dollars, or they would not give it to you. This is a business concern, isn't it? A. Yes, sir.

Q. And it is intended to pay a percentage on the stock, isn't it? A. Yes, sir.

Q. And if twenty-five hundred dollars is paid out to somebody that is not doing anything, that is a wrong to the other stockholders, isn't it? A. I am trying to learn the business. I suppose in time, when I learn it, I will help the company along in the business.

Q. In what way are you trying to learn the business? A. In learning what the construction is and how to work out the specifications and plans and make estimates.

Q. You have engineers to do that, haven't you? A. Yes, sir.

Q. Are you studying engineering? A. No, sir.

Q. It strikes me, Mr. Croker, don't you think that for you to endeavor to learn the business you should be taking an engineering course of some kind? A. No, sir.

Q. You intend to put this fireproof construction into large buildings whenever you can, don't you? A. Yes, sir. Anyway, to try to, under the law.

Q. And it is largely a question of weight and foundation? A. Yes, sir. We consider that the weight is a good deal lighter than the tile.

Q. It is lighter than the tile, isn't it? A. Yes, sir.

Q. And it is an important matter to put the weight in the right way, to put it in the best way, isn't it? A. Yes, sir.

Q. What are you doing, practically, to acquaint yourself with these details? A. Well, I talk with our manager.

Q. Talk with your manager. Is he your instructor and mentor in these details? A. Yes, sir.

Q. Have you made any tests of your system? A. No.

Q. Have you ever mixed that concrete yourself? A. No, sir.

Q. Have you ever been in a building and watched it being mixed? A. Yes, sir.

Q. Where? A. Up here at the Burns building.

Q. Have you carefully studied the composition and mixture of the stuff? A. Yes, sir.

Q. You have done that? A. Yes, sir.

Q. Is that what you are getting paid for. Is that what I am to understand? A. Yes, sir.

Q. Don't you do anything else for that salary of twenty-five hundred dollars? A. Do anything else?

Q. Yes. A. I am down to the office all the time; every day.

Q. What were you doing there? A. Looking over the mail; get familiar with the different people around the country that are using our system.

Q. Does Mr. Hinckley receive a salary as treasurer? A. He is not treasurer.

Q. Who is the treasurer? A. Mr. Briggs.

Q. Oh, yes. Does he receive a salary as treasurer? A. I cannot tell you.

Q. You don't know that. Did Mr. Hinckley pay for his stock? A. I can't tell you.

Q. You don't know anything about it at all. Do you know whether any money has really been paid in the treasury of your company? A. No, sir; I am not the treasurer of the company.

Q. As secretary, you have no record showing any of those things? A. On the books of the company it shows what has been paid in.

Q. As secretary, you have no knowledge? A. No, sir.

Q. Have you really been doing any work as secretary, Mr. Croker, work that really pertains to the office of secretary as generally understood in the corporation? A. I sign contracts; yes, sir.

Q. You sign contracts—drawn up by some one else, are they not? A. Yes, sir.

Q. What records have you got as secretary? A. What do you mean?

Q. Records of the company. What books, records and papers have you in your office as secretary of the company? A. I hold the minute book.

Q. Are there any minutes in it? A. Yes, sir.

Q. The first meeting? A. Yes, sir. The minutes are not in the book yet; I have the minutes but haven't copied them in yet.

Q. That meeting you held in January? A. Yes, sir.

Q. The minutes are still in the rough, are they; not copied in the minute book? A. Yes, sir.

Q. What other books have you? A. That is all I have.

Q. Have you remembered the name of that bank? A. No, sir.

Q. How do you get your salary? A. I get it by check.

Q. Exactly. Signed by whom? A. Signed by the treasurer.

Q. On what bank? A. I think it is—it is some bank here in New York that we draw our checks through.

Q. What bank is that? A. I can't tell you.

Q. How many checks have you received? A. One for January, one for February and one for March and April; one for March, not April.

Q. What have you done with those checks? A. I have cashed them.

Q. How, in your own account? A. Yes, sir.

Q. You have a personal account, haven't you? A. Yes, sir.

Q. Don't you have an account in the same bank? A. No, sir.

Q. It might be the same bank? A. No, sir.

Q. What bank is your bank? A. The Fifth Avenue Bank.

Q. In what part of the town is the company's bank? A. Down town. Our money is deposited in Trenton, but this bank in New York is connected with the Trenton bank in some way.

Q. You cannot possibly give us any more light than you have done in regard to the banks, either in Trenton or in New York, and as secretary of the company you have no records showing what banks the money is deposited in, have you? A. I may have; I don't know; it might be in the minutes; I don't know; I don't suppose it is.

Q. Did you take the minutes? A. No, sir.



Q. Who took them? A. The lawyer took them.

Q. You are secretary of the company? A. Yes, sir.

Q. Have you ever read those minutes over since they were put in your hands? A. Yes, sir.

Q. Are they correct? A. Yes, sir.

Q. Do they state what bank the money was to be put in? A. I don't know.

Q. Now, Mr. Croker, you bear in mind the fact that there are other concrete companies in New York, don't you? A. Yes, sir.

Q. And you want to protect your investment of \$17,000, don't you? A. Yes, sir.

Q. And to that end you don't want any unnecessary competition, do you? A. We don't fear any competition.

Q. And you don't want it, do you? A. We don't fear it.

Q. Of course you don't fear it, but as a business man, do you consider a monopoly a good thing for yourself? A. Not when you have a good thing, I don't think so.

Q. When you let too many people in on a good thing it shrinks, don't it, naturally? A. There is nobody getting in on our system.

Q. I don't say that. I am speaking of that as a proposition, or as an investment. Do you consider it desirable to allow people in on a matter that you have control of yourself? A. I don't understand your question.

Q. Do you remember a meeting between yourself, Mr. Himmelwright and Mr. Briggs, in which the status of other companies in the concrete fireproofing business was discussed? A. We talk it over in general; not often.

Q. You talked over the proposition for bringing other companies into line, so that they might be organized in doing concrete work as well as yourselves, didn't you? A. No, sir.

Q. You didn't have such a conversation? A. We didn't talk of bringing them into line.

Q. What did you talk of doing? A. We understood there was going to be a change in the laws; that there was a building commission up here and we wanted to have somebody represent us so we could be recognized in that law, if possible.



Q. Then the point of the discussion was the result of the work now being done by the Building Code Commission. Is that so?

A. We didn't have work being done. We understood they were going to revise the building laws.

Q. Yes; that is it, of course, and you thought it would be a good thing to have in that code some provision which would cover the concrete system of fireproofing, didn't you? A. We thought we would like to be represented in that law; at present we are not mentioned in the law.

Q. You recognize the fact that the superintendent of buildings, under the law of the building department, has the right to approve not only the terra cotta system but such other systems as he might see fit, don't you? A. Yes, sir.

Q. Why haven't you endeavored to move upon the superintendent of buildings to make him see something that is fit in other systems than the terra cotta? A. I am not doing that at all. He knows our system; if he wants to let it in, I suppose he can.

Q. Don't you think the law which I have just quoted, of Mr. Brady's powers, is sufficient to let your system in, if it is a good system? A. I think so; yes, sir.

Q. But you say you never have done anything to induce Mr. Brady to amend his judgment? A. No, sir.

Q. Did you know that Mr. Himmelwright was going to Mr. Wright, of the Columbian Company, to speak to him about the matter? A. I heard them talk it over in a general way. I think I knew that, but I paid no attention to it.

Q. Did you know he went to Mr. Watson? A. I don't know who Mr. Watson is.

Q. Of the Expanded Metal Company? A. I heard him talking about it.

Q. You knew he was going to other companies besides that? A. No, sir; I didn't know he was going to any company.

Q. You knew in a general way men had been seen in other companies doing this kind of construction, didn't you? A. Men had been seen?

Q. Now, I ask you the question again. Didn't you know that other men, interested in this kind of construction, had been seen with reference to this Buildings Code Commission? A. Do you mean they have been seen by some member of our company?

Q. Yes. A. That is a different question altogether.

Q. Were you not present at conversations in which you yourself took part between Mr. Himmelwright and Mr. Watson, and Mr. Wright and Mr. McCann; Mr. McCann is related to you, is he not? A. Yes, sir.

Q. And he is connected with the company substantially as Mr. Himmelwright testified the other day, isn't he? A. No, sir.

Q. Not substantially so? A. He is not connected with our company.

Q. He is attorney for it, isn't he? A. No, sir.

Q. What relation does he hold to your company? A. He does not hold any relation to it.

Q. Hasn't he received a retainer of \$5,000? A. No, sir.

Q. How do you know he has not? A. I have never seen any money given to him or heard of any given to him from the company.

Q. The treasurer may have given some money without your knowledge? A. It would have been on the books.

Q. You didn't examine the books, did you? A. Yes, sir.

Q. I have asked you questions about the finances of this company upon which you have absolutely no knowledge until this question has come up? A. I know he has been paid no money by this company.

Q. Mr. Croker, you don't know whether the \$17,000 is deposited in the bank; you don't know whether it has been drawn out. How do you know that \$5,000 of your seventeen thousand was not given to Mr. McCann, as Mr. Himmelwright has testified? A. I know it has not been paid by our company to Mr. McCann.

Q. Who has it been paid by? A. I cannot tell. It may have been paid by the other company.

Q. Now, Mr. Himmelwright testified that he did not consider Mr. McCann's request or his estimate of his services at five or ten

thousand dollars excessive, because of the retainer that he had received from your company when they were organized last January, a retainer of \$5,000; and you say you have no knowledge of that? A. He was not paid anything by our company.

Q. And Mr. McCann did not deny that statement. Who was it paid by? A. I say it may have been paid by John A. Roebling's Sons' Company, but it was not paid by the Roebling Construction Company.

Q. What interest has the John A. Roebling's Sons' Company in this matter of fireproof construction? A. Mr. Charles Roebling and Mr. Ferdinand Roebling are both stockholders in it.

Q. You know Mr. McCann has received a fee from your company for the purpose of representing it before the Buildings Code Commission, don't you? A. No, sir.

Q. You know he has received a fee from some one for that purpose? A. No.

Q. How do you explain your lack of knowledge on that point? A. I don't think he has received any money.

Q. Is it merely an assumption, or do you know he has not received it? A. I would not swear to it; I don't think he has.

Q. If he has, he hasn't told you? A. No, sir.

Q. Have you asked him about it since the testimony came out, and since it has been public. Haven't you been interested in that? A. I didn't ask anything about that.

Q. Have you seen him since that time? A. Occasionally.

Q. Have you talked about this investigation and the testimony here with Mr. McCann? A. In a general way.

Q. And you have been sent for and asked about the truth of the statement that he had received \$5,000 from this company to represent it? A. No, sir.

Q. Do you remember in any of these conversations with other men of fees being named that Mr. McCann would receive from them to represent them before the building commission? A. I was not present at any of their conversations.

Q. Then he may have asked such fees, so far as you know? A. He may have, but I didn't hear him.

Q. You do not come here to deny the statements of Mr. Watson in that particular, do you? A. I don't know. I didn't hear Mr. Watson state any particular company in conversation.

Q. That answers the question. You heard none of that conversation, and if you heard it you don't remember it, so you do not come here this morning voluntarily for the purpose of contradicting anybody, do you? A. No, sir.

Q. So far as you know, they may have told the truth? A. I just came here to tell you what I know.

Q. So far as you know, they may have told the truth, may they? A. They may; yes, sir.

Q. What has Mr. McCann been doing for your company? A. He has been looking over the specifications, so far as I know, and seeing that the legal part is all right, I suppose.

Q. And has he been preparing to represent your company before the building code commission? A. I think he has; yes, sir.

Q. He has or has not? A. I think he has.

Q. Don't you know? A. No, sir.

Q. You are there every day at the office, aren't you? A. Yes, sir.

Q. Do you know whether Mr. McCann has appeared for the company already in public in this matter before the building code commission? A. I think he appeared before some committee there in regard to setting a time for a hearing.

Q. He appeared for your company then, didn't he? A. Yes, sir.

Q. What retainer has he received? A. He has not received any.

Q. Has received no retainer at all? A. Not so far.

Q. Hasn't he received any money since he has been your counsel? A. No, sir; not that I know of.

Q. Do you know whether he has or not? A. No, sir.

Q. You don't know? A. No, sir.

Q. Now I want to ask you about this other company?

Mr. Fallows—Will you ask the witness whether there is any agreement?

Mr. Moss—I will ask that.



Q. Do you know of any agreement, Mr. Croker, made by any one in your interest, in the interest of your company with regard to McCann for a fee or a retainer or any compensation whatever?

A. No, sir.

Q. You don't imagine he is working for nothing, do you? A. I don't know about that.

Q. You have been consulting yourself about that, haven't you? A. No, sir.

Q. Now look here, Mr. Croker, you are secretary of the company and the owner of 170 shares of stock, one-third of the stock, and here is a lawyer doing services for your company, and to that extent likely to put in a bill some time, for that is the habit of lawyers, isn't it? A. Yes, sir.

Q. Do you mean to say you are not concerning yourself at all with the financial aspect of Mr. McCann's relation to your company? A. I suppose that he gets a fee—that he should expect something for it.

Q. Exactly; but don't you look upon it just this way, Mr. Croker, that inasmuch as McCann is your relative, a relative of your father and connected with Senator Grady, that he is not likely to do anything very wrong by the company? A. Yes, sir.

Q. And you are not disposed to question anything that Mr. McCann does under these circumstances, are you? A. No, sir.

Q. Even though you have a financial interest of your own? A. No, sir.

Q. And that is true, notwithstanding the fact that all the money you ever expect to ask your father for as capital is invested in that company? A. Yes, sir.

Q. Now, about this other corporation. You stated, I think, they had formed for the purpose of furnishing estimates and plans, engineering estimates and plans, for building, and may also do building for yourselves. Do I understand you? A. Yes, sir; contractors.

Q. Who composes that company—the United Company? A. Mr. Livingston, Mr. Hoff and Mr. Molinaux.

Q. Who else? A. And myself and my brother.



Q. What is his name? A. R. D. Croker.

Q. Who else? A. And Mr. Hinkley, I believe, has some small stock.

Q. Do you say Mr. Hinkley has some small stock in it? A. I think so; yes, sir.

Q. Is it incorporated? A. Yes, sir.

Q. In New Jersey or New York? A. In New York.

Q. What is the capital of that corporation? A. I think it is \$50,000.

Q. How much stock have you? A. I have 60 shares.

Q. How much has your brother? A. I don't know just how much he has.

Q. As much as you? A. Yes, sir.

Q. Who is Mr. Livingston, that is in it? What other business has he? A. He isn't in any other business.

Q. What is his first name? A. John Livingston.

Q. Where does he live? A. I can't tell you.

Q. Don't you know where he lives? A. He was living at the Lyon hotel, I believe.

Q. When was he living there? A. About a month ago.

Q. What is Mr. Hoff's first name? A. David, I believe.

Q. Where does he live? A. He lives at the Engineer's Club.

Q. What is Mr. Molinaux's name—first name? A. I don't know.

Q. Where does he live? A. I don't know.

Q. Who is the principal stockholder? A. I think Mr. Hoff.

Q. What proportion of stock has he? A. I can't tell you,

Q. Who is the creator or the organizer or promoter of this corporation? A. Mr. Hoff and Mr. Livingston.

Q. Was it already created before you went into it? A. No, sir.

Q. It was formed for you to go into, was it? A. Yes, sir.

Q. Were Mr. Hoff and Mr. Livingston engaged in business before the corporation was formed? A. No, sir; I don't think so.

Q. What business were they engaged in before the corporation was formed? A. I can't tell you; I don't remember.

Q. Has the corporation done any business? A. Not a thing; no, sir.

Q. How long has it been organized? A. It has been organized about two or three weeks, I should think.

Q. Only two or three weeks? A. About that.

Q. Has it any arrangement with other companies to carry out its contracts? A. No, sir.

Q. Has there been actually a meeting of the stockholders? A. Yes, sir.

Q. And have the papers actually been signed? A. Yes, sir.

Q. Did you sign the papers? A. Yes, sir.

Q. What office do you hold? A. Nothing at all.

Q. Who is the secretary? A. I think Mr. Molinaux is secretary.

Q. Who is the president? A. Mr. Hoff.

Q. Who is the treasurer? A. Mr. Livingston.

Q. Have you paid for your stock? A. No, sir.

Q. You have not? A. No, sir.

Q. Has anyone paid for his stock yet? A. Yes, sir; I believe there have.

Q. Who has paid in? A. Mr. Livingston and Mr. Hoff.

Q. Mr. Livingston and Mr. Hoff has paid in? A. Yes.

Q. Has Mr. Molinaux paid in? A. I think so.

Q. Have you paid in? A. I said no.

Q. Has your brother paid in? A. I don't think so; I don't know.

By the Chairman:

Q. Have you your stock certificate? A. Yes, sir.

By Mr. Moss:

Q. Now, I asked you a little while ago if you had a receipt for the money you paid in, and you or someone else suggested that the stock certificate was a receipt. Now, you see why I was careful in asking you whether you had a receipt. Here you had a stock certificate which was not a receipt and you have not paid your money. Have you any arrangement or understanding with

the treasurer, personally, which protects him against having given you that stock without any money? A. No.

Q. Any arrangement at all? A. No.

Q. Have you told him when you will pay it? A. No, sir.

Q. Have you given him any note? A. No, sir.

Q. Any obligation whatever? A. No, sir.

Q. Has he asked you for it? A. No, sir.

Q. Has anyone asked you for the money? A. No, sir. I was given stock in the company.

Q. A present? A. I don't know what you would call it, I was given stock, that is all.

Q. Did you expect to get the stock? A. Yes, sir, when they spoke of forming the company I expected the stock.

Q. You understood it when they spoke of forming the company. Who spoke of it? A. Mr. Hoff.

Q. Who did he speak to? A. He spoke to me about it.

Q. Was anyone else present? A. Mr. Hinkley I believe was present.

Q. Anyone else? A. No, sir.

Q. Did your father speak to you about it before that time? A. No, sir.

Q. What kind of company did Mr. Hoff say it would be? A. A regular contracting company.

Q. And you expected to do a contracting business did you not? A. Yes, sir.

Were you told how much stock you would get? A. No, sir.

Q. Did you speak to your father about it? A. I think I mentioned it to him; yes, sir.

Q. Did he speak to you about it? A. No.

Q. Wasn't it Mr. Hinkley that first mentioned the matter? A. No, I said Mr. Hoff was the first one.

Q. Do you know whether Mr. Hoff and Mr. Hinkley had conversed before? A. I cannot tell you that.

Q. Then you were not surprised when Mr. Hoff offered to present you with 60 shares of stock were you? A. No, sir.

Q. Was your brother likewise presented with his stock? A. I cannot tell you that.

Q. What is your impression about that, you say he has not paid for it? A. No.

Q. You do not care to give an impression, I won't press that. What assets has this company? A. Well, he have—I think there was \$35,000 in cash they have, and some tools and things.

Q. Thirty-five thousand dollars in cash and some tools. What are the tools? A. Tools for doing contracting work.

Q. Do you mean horses, carts, etc.? A. Shovels and such things.

Q. They have not got horses yet? A. No, sir.

Q. Were there \$15,000 worth of shovels? A. There is a patent I believe.

Q. There is a patent, is there. A patent for what? A. I don't remember just what the patent is.

Q. How soon do you expect to do business? A. I don't know whether we will do any business. We expect to do it any place, any part of the country, if it is not confined to New York.

Q. What class of contract work are you expecting to do, what kind of work? A. Our principal work is drawing up plans of different kinds.

Q. You don't draw up plans with shovels. What kind of contract work are you expecting to do? A. Most any kind.

Q. Erecting buildings? A. No, they do not expect to erect buildings. Expect to build railroads and things like that.

Q. Build railroads, as large enterprises as that? A. Yes.

Q. And anything smaller? Bridges? A. I do not think they expect to erect bridges.

Q. Have you any particular railroad in mind that you are going to build? A. No, sir.

Q. Have you any particular matter upon which you are going to figure? A. No, sir.

Q. The whole thing is in the air except the \$35,000 in the treasury contributed by Mr. Livingston and Mr. Hoff, together with the services of yourself and your brother? A. So far as I know.



Q. The prospective services I mean of course? A. Yes.

Q. Mr. Croker, you have written some letters to gentlemen in the city departments, requesting them to purchase certain materials. You recall those letters do you not? A. No, I don't recall them; no, sir.

Q. Letters, for instance, to the building department of the school board. You remember writing up there don't you? A. I think our company wrote there.

Q. Yes, but you yourself wrote the letter as the secretary of the company, didn't you? A. I don't remember writing the letters.

Q. You know the letter was sent? A. I know there was a letter sent, a petition sort of, sent to the committee, to ask to be allowed to figure on some of the work in the schools.

Q. I don't mean an ordinary petition, I mean letters, letters under seal, written by you? A. I don't remember any letters.

Q. And your brother, separately of course, a line to the heads of departments asking that they would use certain materials which you were interested in? A. My brother?

Q. I will leave your brother out, but you have? A. I don't remember writing them.

Q. You won't deny that you have? A. I won't deny it, because I don't remember them.

Q. But you don't deny it? A. Well, I don't remember any letters being written.

Q. Will you deny it? A. No, I won't deny it.

Q. I would like to have you act square with these matters, Mr. Croker? A. I am going to be square.

Q. I am dealing with you squarely, and you must be. I am sure you have written such letters? A. I don't remember writing any such letters.

Q. Have'nt you written letters to the building department of the school board indicating certain materials that they might use in the school construction? A. There may have been a letter in the form of a petition.

Q. No, I mean a sealed letter. The furthest you will go upon that, willingly, is that you don't remember? A. Yes, sir.



Q. It is entirely possible that you may have done so? A. Yes, sir.

Q. And you may have written such a letter to Mr. Snyder? A. I may have.

Q. And Mr. Snyder we have tried to get here, and he is unfortunately very sick at his home. Did you know Mr. Snyder was sick? A. Yes.

Q. Now, if you wrote such a letter, Mr. Croker, what was it you wanted Mr. Snyder to buy or to use or put into the construction of the schools? A. I say I don't remember writing any letter.

Q. What was there that you wanted the school department to take or use? A. We wanted a chance to figure on some of the school buildings.

Q. Mr. Croker, what were you to do for this United Company in return for the \$6,000 worth of stock? A. Do whatever I can for them I suppose.

Q. Well, what can you do? A. Cannot do anything particularly, I don't know much about contracting business.

Q. You have not met with them have you? A. Met where?

Q. Anywhere? A. Oh, I see them once in a while, they have their office in the Syndicate building.

Q. That is in the Syndicate building too? That is getting to be quite a central point for contractors and for heads of departments isn't it? A. I can't tell you that.

Q. You know there are other contractors with whom you are acquainted in that building don't you? A. Yes.

Q. You won't be strangers there will you with the other tenants? A. I can't tell you.

Q. You have already said you were not particularly acquainted with Mr. Livingston and Mr. Hoff? A. Yes, sir.

Q. Not if you didn't know where they lived, and were not sure of the first names of some of your friends. Now what is there, if there is not friendship, what is there between you and your brother on the one side,—you and your brother and Hinkley on the one side and Livingston and Hoff and Molineaux on the other side, which would lead them to make you two young men practi-

ally a cash present of \$12,000? What is there between you? A. There was nothing between us, they thought we knew a lot of people around, and different railroads and things.

Q. They thought you knew a lot of people around and some different railroads and things? A. Different people connected with railroads, yes, sir.

Q. They thought that you naturally knew people connected with railroads? A. I don't know what they thought.

Q. Didn't they ever speak of other people than those connected with railroads? A. No, sir.

Q. You are sure they never mentioned any of the city departments? A. I won't swear to it.

Q. Did they ever speak to you about getting work in some of the city departments, or through some of the city departments? A. No, sir.

Q. Was it necessary to speak of such a thing as that? A. They didn't expect to do any city work I don't believe, no, sir.

Q. Was there anything in the mental equipment or in the great knowledge of either yourself or your brother that was valuable to these men, or intended to be of value to a contract business? A. No, sir, not that I know of.

Q. How old is your brother, is he older or younger than you? A. He is going on twenty-seven.

Q. He is two years older than you? A. Very near, yes, sir.

Q. Has he done any particular work since he left college? A. No, sir.

Q. And neither he or you have perfected yourselves in any particular branch? A. No, sir.

Q. And neither of you have ever had any practical experience in contract work of any kind? A. No.

Q. And as to engineering problems you are perfectly innocent of them are you not? A. Yes, sir.

Q. You wouldn't hesitate,—you wouldn't refuse to do city work would you? A. Well, I just as soon not do it.

Q. Why? It does not pay very well does it? A. It generally causes a lot of talk.

Q. By whom? A. Everybody. Newspapers, and I think you would talk a lot about it.

Q. Certainly. That is what I am here for, Mr. Croker. I just wanted you to say that. I was led to ask the question because of the general situation of things. You are not hesitating to bid on school contracts are you? You are bidding on them? A. Yes, sir, in competition.

Q. That makes some talk has it, or has it? A. I suppose it has, I have not paid much attention to it because we are doing everything fair.

Q. You have acquaintances, young men like yourself, who have grown up in friendly relations with you, with whom you and your father have been acquainted for years who are in corporations, situated very much as you are, haven't you? A. I don't know.

Q. You know young men perhaps a little older than you? A. I don't recall any just now, not in business like ours.

Q. Do you know Eddie Carroll? A. Yes, sir.

Q. What company is he in? John P. Kane isn't it? A. I didn't know he was in that company.

Q. Then you know the sheriff's relative, what is his name? Mr. Dunn, what is his first name, that is in some contracting business. Bartholemew isn't it? Don't you know Bartholemew? A. No, sir.

By Mr. O'Sullivan:

Q. This new company you have been talking about for the past half hour has only been organized about two weeks; as I understand it has done no business? A. No, sir.

Q. And no business has been offered to it in any way? A. No, sir.

By Mr. Moss:

Q. Is your brother in any other corporation? A. Not that I know of. No, sir.

Recess until 2 p. m.

## AFTER RECESS—2 O'CLOCK P. M.

Mr. Moss—Is Mr. Bingham present?

The Chairman—He does not seem to be here.

THOMAS WALKER, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am a builder. My office is at 42 East Twenty-third street. There is an indictment pending against me in the Court of General Sessions. That indictment was found some time in the latter end of August, 1895. That is about three and a half years ago—near four. The indictment was in reference to the Ireland accident in Third street. That is the building that fell down. John H. Parker, the builder; Murray, the foreman; Buckley, the building inspector, and Behrens, the architect, were indicted with me. I think there was one other, but I don't remember his name now. None of those persons has been tried; not to my knowledge. None of those indictments has been dismissed; not to my knowledge.

Q. Was the indictment against you called up a little while ago?

A. Not that I know of.

Q. Did the case come on the calendar a short time ago? A. I didn't hear of it. I was not notified of it.

Q. Has the case been adjourned at various times? A. I couldn't tell. I have never been notified of it; never been called.

Q. I want you to tell us about that man who called upon you and wanted money for the adjournment of your case? A. There is very little to tell in that.

Q. Will you tell us what there is of it? A. A man called to my office and wished to see me. I was out and he called again, and he merely mentioned that if I wanted to get rid of the case he could get rid of it for me.

Q. When was it that that man called? A. I could not tell the date; about three weeks or more ago.

Q. Had you ever seen the man before? A. Not in reference to that.



Q. Had you seen him in reference to anything else? A. He was a personal friend of mine.

Q. Holding any official position in the city? A. Not that I know of.

Q. Connected with anybody? A. Not that I know of.

Q. Who was he? A. He is in the building trade.

Q. And he said that he could get rid of it for you? A. He intimated as much, but I didn't give him any encouragement because he knew beforehand that I was not a man that would take up any scheme of that kind.

Q. Did he say how it would be done? A. He didn't mention at all. He merely said that he thought he had pull enough to get it off for me.

Q. He said that—that he had pull enough to get it over for you? A. Yes, sir, that is what he intimated.

Q. How is it that the case had been allowed to lie so long? A. I am sure I don't know.

Q. Have you made any motion to bring it to trial? A. No, sir.

Q. You have made no motion to dismiss the indictment, have you? A. No, sir.

Q. You are simply waiting the action of the county authorities, then? A. The way I look at my case is, I was simply held as a witness. I am not one of the principals. Therefore, of course, I would not be called unless I was required.

Q. But the indictment is against you is it not? A. Certainly.

Q. You are charged with a serious crime on the face of the indictment, are you not? A. Certainly.

Q. Have no other approaches been made to you besides that one? A. None.

Q. Are you willing to give us the name of the gentleman who made that approach to you? A. I would prefer not.

Q. Will you give it to us in confidence? A. Certainly.

By Mr. O'Sullivan:

Q. I would like to ask a question or two. In answer to a question of Mr. Moss's you said that a serious charge was recorded



against you on the face of the indictment, did you not? A. Yes, sir.

Q. Did you ever see the indictment? A. I simply signed my name to it.

Q. Did you ever read what was on the face of the indictment? A. Not the entire of it.

Q. What did you read on the face of the indictment? A. I don't remember now.

Q. How, then, do you know that it was a serious charge? A. For the simple reason that I was convicted with the others.

Q. Convicted? A. At least, I mean I was charged with the others at the time of the coroner's inquest.

Q. Charged with what? A. With connection with this accident.

Q. They charged you simply with being connected with the accident? Was that it? A. Yes, sir; but my memory in reference to it is that I was held as a witness. That was the way I took it all the time.

Q. Is not that what you believe now—that you are simply held as a witness in this matter? A. So I understand.

Q. You say a man called who was a personal friend of yours. How long has he been a friend of yours? A. Eight or nine years.

Q. And yet he came to you with a proposition of that kind, and did not know that you would reject it, and you call him a personal friend? A. I certainly looked on him as such, up to then.

Q. And he is not a friend of yours now? A. I would not consider him so.

Q. Why do you withhold his name? A. Oh, I don't think it would do any good.

Mr. O'Sullivan—I would like to get his name if you will give it. The Witness—I would prefer not, doctor.

Q. You say he has no connection with any of the departments of this municipality? A. Not to my knowledge.

Q. Were you in court this morning when Mr. Moss said that certain people were doing things in the name of his society, and that he was willing to prosecute them? A. No, sir, I was not.

Q. Do you know whether or not this man had the power to make good any promise that he made to you? A. I do not. I don't believe he had, even. That is the way I felt about it.

By Mr. Moss:

Q. Was not that charge against you manslaughter? A. I don't remember now, but I know that four or five of us were convicted on the same day.

Q. We can get the indictment. You mean charged. You have not been tried, and therefore have not been convicted, have you? A. Charged, yes, sir.

Mr. Moss—The point is the length of time that case has been laying there upon this important subject. It comes right in line with our thoughts at this time.

By Mr. O'Sullivan:

Q. Did District Attorney Olcott ever make any call upon you for your presence, or anything, while he was district attorney? A. No, sir, no one has.

Q. Or did any of the previous administration? A. I have never, been called for even an examination.

Q. Do you know whether or not, as a matter of fact, that indictment is on file there now? A. Not personally, I do not.

Q. As far as you know it may have been destroyed during District Attorney Olcott's term of office? A. It may have been. I have been simply looking for a notice that it is one way or the other, and I have never got any notice.

Mr. Moss—Is Mr. Bingham here yet?

(No answer.)

Chief WILLIAM S. DEVERY, being recalled and further examined, testified as follows:

By Mr. Moss:

Q. Where does Michael Bergen live? A. One moment, Mr. Moss. Mr. Mazet, on those charges as presented by Mr. Moss, in which that suit is pending, have you allowed them in evidence?

The Chairman—The situation is this: I allowed them provisionally to be offered in evidence, subject to any subsequent proceedings only. They are only in provisionally, now.

The Witness—I took an exception as to them at the time.

The Chairman—Yes, I understand that, and it still remains in that way.

The Witness—And the exception is entered on the minutes?

The Chairman—Yes; we will allow you to have an exception noted on the minutes.

The Witness—Now, I ask the protection of this committee, and that Mr. Moss confine himself to any questions touching on my administration as chief of police. I am here and stand ready to make an open breast as to any question he may ask me touching on the welfare of the city, for the benefit of the public, or as to any question touching on my administration since I have been chief of police. I think his object in entering those matters in this case is to go behind the stay of a court of which he is officer, the Supreme Court, and his object is entirely foreign to this inquiry.

The Chairman—Have you finished?

The Witness—Yes, sir.

Mr. Moss—There is nothing to be said, is there?

The Chairman—I think not. As far as this investigation is concerned, Mr. Devery, we will endeavor to protect your interests, and when a question comes up that we think is irrelevant we will pass upon it when it is presented. You will understand, of course, that the scope of this investigation is rather broader than a technical trial, where you are the defendant. I do not understand now that you are taking the attitude of a defendant.

The Witness—I am taking the attitude of a defendant inasmuch as this: That on the matter referred to as presented and entertained by this committee, that I have been tried by a jury twice on, I have been broke before the police commissioners on it, and it is now in evidence again against me here, and there is a stay of the Supreme Court against it.

The Chairman—Yes; we understand the facts, I think.

The Witness—I will answer any question touching on any matter he may ask me since I have been reinstated in the police department, which will not go back to enforce anything which might come as evidence against those complaints.

The Chairman—We will see as we go along.

Mr. Moss—Let us see whether what the chief has said is really true. Undoubtedly he thinks they are true and means them to be true; but let us see if he is not mistaken.

Q. The first of these questions to which you have referred was your trial in the Court of Oyer and Terminer, before Judge O'Brien, was it not? A. I decline to answer that.

Q. You have alleged that certain things have been tried and disposed of, and you allege that all these subsequent things are the same as that that was tried and disposed of; and in order to have the benefit of that position, we ought to be able to know what you claim is true? A. I have been tried on that and the jury acquitted me.

Q. What was it you were tried on in the Court of Oyer and Terminer and acquitted on? A. The records of that court will show that.

Mr. Moss—If you want me to treat you fairly, you must treat me fairly.

The Witness—I want to be fair, Mr. Moss.

Q. If you have been acquitted on a matter that was charged against you, what is the harm of saying what the charge was of which you were acquitted? It does not hurt you, does it? A. It has cost me so much money, and I am here unprotected by counsel, and I have been stayed in every way from being compensated for the money that I have spent, and I don't wish to go back again to have those things rehashed. It is an old thing.

Q. We want to see what those things are that you do not want to have rehashed; and how can we tell if you do not tell what they are? A. Anything I have been tried on.

Q. The committee cannot tell what is material on your claim, unless you tell it? A. Anything touching those specifications that I have been tried on.

Q. What was it you were tried on in the Court of Oyer and Terminer? A. The records of the court will tell you.

The Chairman—We must get at that, Mr. Devery.

The Witness—I really could not tell you.

The Chairman—You can tell us the substance of the indictment and the charge against you.

The Witness—I really could not tell you, it is so long ago.

Q. You can't tell the substance of the charge that you were indicted on? A. I disremember what way that read. Perhaps you can tell, Mr. Moss.

By Mr. Moss:

Q. If you had said that before, I would have helped you out. Was not the charge against you in the Court of Oyer and Terminer criminal neglect of duty in having failed to suppress a disorderly house at 81 Eldridge street? A. I can't remember.

Q. If I state that that is my recollection of the matter, do you dispute it? A. I object to its being entertained here.

Q. But what is it that you object to being entertained? A. What you say now—I don't remember whether it is so or not. I can't remember it.

Q. You were tried upon some charge as to which I have stated my recollection to be that it was a charge of neglect of duty as to a house of ill-fame, No. 81 Eldridge street. The next time that you were tried was before the police board, was it not? A. No, sir.

Q. Where; wasn't it before the police board, of which Mr. Bernard F. York was president, and Mr. Sheehan was a member, and Mr. Murray, I think, and some other gentleman whose name escapes my mind? Your trial came before them, did it not? A. Yes, sir.

Q. Was not the accusation against you there the statement of a woman named Schubert, and certain other women, to the effect



that they had paid you money? Was not that the charge against you there? A. It was the same as I was acquitted on.

Q. Do you say it was the same that you were acquitted on before the Court of Oyer and Terminer? A. The specifications, I believe at that time—I can't exactly remember—but it was a facsimile.

Q. It is strange you forget those matters, unless it be because you were sick, as you claimed to be, at the time that trial was brought on before the police commissioners. Do you remember that you claimed to be sick at the time that trial came on? A. You can go on and explain that thing.

Mr. Moss—We want to understand your claim.

The Chairman—We went to get at the facts, and you can help us very much in that respect as to what these charges were.

The Witness—My memory at that time was bad, and I don't remember now. There was a good deal that went on at that time that I don't remember and can't remember. The records at police headquarters and the records of the courts will show all that. Anything touching on my administration now that can enlighten this committee, I sit here ready to enlighten the public on, and tell anything and everything I know touching the welfare of the city, as to the good side and the bad side; but I don't want to go back behind the records.

By Mr. Moss:

Q. We have not gone behind anything yet. We are trying to find out what it is you do not want to go behind. Perhaps you will remember that at the time you were tried before the police commissioners the Lexow investigation was proceeding; do you remember that? A. I heard something about it.

Q. And in that investigation Mrs. Schubert, Mrs. Sanford and Charles Pryam swore they had paid you money to protect them; do you remember that? A. I do not.

Q. Do you remember that any of them swore to that? A. I do not.

Q. Do you not remember that your own superiors then, Mr. Martin and Mr. Sheehan, and the others formulated a charge against you based upon the testimony which was then being given before the Lexow committee and called you to trial; do you remember that? A. I do not.

Q. Do you remember that you were called for trial before that board of police? A. I do not.

Q. Do you remember that you were sick during the Lexow investigation? A. I have heard since that time I was; yes, sir.

Q. You were familiar with the appeal that was taken from the judgment of the police commissioners, Messrs. Martin and others, were you not; your own appeal? A. I can't remember that.

Q. Do you not remember that Mr. Martin and the other commissioners dismissed you from the force? A. I know there was an appeal taken.

Q. Do you not remember it was Mr. Martin and Mr. Sheehan and those gentlemen who dismissed you from the force? A. I understood since it was.

Q. It was not Mr. Roosevelt and his associates, was it, that dismissed you from the force? A. No, sir.

Q. And you took an appeal from the dismissal that was made by those gentlemen, did you not? A. My lawyer did.

Q. You knew it was done, did you not? A. Well, I can't say that I remember.

Q. Did you not know anything about it? A. There is a specified time they had charge of my matters, and I haven't given that any consideration. It is so long gone by that I don't remember now, Mr. Moss.

Q. Was not the ground of your appeal that you were tried in your absence and while you were sick? A. Something like that, I remember.

Q. When your case was called for trial before Commissioner Martin and the other commissioners, testimony was offered on your behalf that you were sick and unable to appear, and there was testimony of other physicians that you could appear, and

the commissioners went on and tried you in your absence; and then you appealed from their decision upon the ground that you had not been fairly treated; do you remember that?

The Witness—What was that you say about my physician?

Mr. Moss—I say your physicians came to court to say to the court that you were unable to come, while the police surgeons testified you were able to come. Do you remember that?

The Witness—I don't remember.

Q. You have forgotten that; do you remember that the Appellate Court overruled and vacated the judgment of those commissioners because they were not satisfied upon the record that you were able to attend the trial; do you remember that? A. I don't understand that question.

Q. Do you know upon what ground it was that the commissioners were overruled? A. I couldn't tell you.

Q. Do you remember what it was that those persons whom I have mentioned testified against you? A. No, sir.

Q. You do not remember that? A. No, sir.

Q. But you do remember that you were reinstated after that removal by those commissioners, do you not; you do remember that, do you not? A. I do not.

Q. You do not remember that you have been reinstated? A. Let me see. I think it was your board, or the Roosevelt board—I can't remember now. The 19th, I think it was, I was reinstated. Some time in 1895.

Q. You were reinstated by the Roosevelt board, were you not? A. I think I was; yes, sir. You said the other board.

Q. You were removed by the Martin board and restored by the Roosevelt board? A. That is right.

Q. Then you were tried again on an indictment found by an extraordinary grand jury, were you not? A. Yes, sir.

Q. And that indictment was upon a charge that you had taken \$100 from a man named Seagrist; do you remember that? A. I know I was tried.

Q. Do you remember that it was on an indictment charging that you had taken \$100 from Mr. Seagrist? A. And I remember that it was clearly proven in that case that I did not.

Q. I understand. But do you remember that you were tried on that charge? A. Something like that. I couldn't say whether I was indicted on that or what I was indicted on.

Q. It was the Seagrist matter, was it not? A. The records of the court will show. I can't tell.

Q. Do you not know that it was the Seagrist matter? A. I couldn't say.

By the Chairman:

Q. You were present at that trial? A. I was present at that trial. Whether that was the indictment or not, they brought up that end of it, the Seagrist end.

By Mr. Moss:

Q. You told us the other day yourself that that was the Seagrist charges, and you objected to this record because you said it was the Seagrist charges over anew. Now you remember, do you not? A. That is what I presume it was.

Q. And then I reminded you that upon that trial your friend Frank Farrell was one of your witnesses who testified that you were somewhere else at the time that it was charged against you. Do you recall the testimony on Saturday? A. I recollect something touching on it; yes, sir.

Q. I reminded you of Mr. Farrell's occupation, and that he was a pool seller, and you remembered that that was his reputation. Do you remember that? A. I did not.

Q. Do you remember testifying that he was alleged to keep a poolroom, do you not? A. I did not.

Q. What did you testify about that? A. Mr. Moss, I disremember. I don't know him to be in that line of business.

Q. I am asking you what you testified on Saturday. I do not really know what you know about the matter? A. I answer to

the best of my ability. I don't know that he is in that line of business.

The Chairman—You misunderstand the question. He is not asking you that. He is asking you what you know testified on Saturday.

The Witness—Well, I evidently must have testified that I didn't know that he was in that line of business, because I do not.

By Mr. Moss:

Q. You testified that he was at 54 West Twenty-ninth street, did you not? A. No, sir.

Q. It is evident that you have forgotten that testimony. You remember that he testified to an alibi for you, do you not? A. Yes.

Q. And you remember that he is a friend of yours? A. I do.

Q. Do you not recall my asking you on Saturday whether or not on your trial in the Oyer and Terminer the fact came out that he was a reputed pool seller, and you said no? Do you remember that? A. I don't understand your question the way you are putting it.

Q. Very well, you were acquitted on that charge, you say? A. I was.

Q. So we have these four matters; the first one, a trial in the Court of Oyer and Terminer, on a charge relating simply to the house 81 Eldridge street; second, a removal by Messrs. Martin and others, police commissioners, at the time of the Lexow Investigation, upon the testimony of several people who appeared before those commissioners upon the complaint of the then chief of police, and testified that they had paid you money; then the trial of the Seagrist charges in the Court of Oyer and Terminer. Those are the matters that have been tried, are they not? A. I believe those are the matters, yes, sir.

Mr. Moss—Now the committee will be able to determine from this statement which we have at last got what there is in the



untried case at headquarters that has not been disposed of in the way that has been stated.

Q. Now, I will ask you if you recall the testimony of some of these witnesses upon which you were tried before the police commissioners, Messrs. Martin and others. I ask you if you recall the testimony of Charles Pryan, of No. 38 Bayard street, that he paid an initiation fee and a monthly fee. He was asked this question: "Q. When Captain Devery came, had you to pay any more initiation fee? A. Why, yes, sir, \$500 more. The ward man's name was Glennon, and I guess he is in the same precinct with the captain now."

Q. Where is Glennon now? A. Twenty-second precinct.

Q. Is he related to you? A. No, sir.

Q. Is with Captain Thomas now? A. Yes, sir.

Q. (Reading). "Every captain takes a new ward man to the precinct. Glennon came to my house. I was not there. The housekeeper said, 'The new ward man was here and wanted to see you and he expects you to be at the station at five o'clock in the evening.' I knew very well what it meant, so I went to the Eldridge street stationhouse. I inquired at the desk for the ward man and he was called. Then I saw Glennon for the first time. I gave him my name, and the number of my house. He said, 'Oh yes, I have been down to your house. I wanted to see you.' We went out on the stoop and he talked business to me." Do you remember that testimony? A. I will qualify that answer by this: I have never demanded or received any money or valuable, or thing for doing or refraining from doing my duty, or any part of my official duty, and I have never received a dishonest dollar, or demanded one in my life. I defy anybody on that, and I am advised that any question touching my personal affairs is not material or proper or pertinent to this inquiry, and I decline to answer, by advice of counsel.

Q. That means that you will not tell us what real estate you own, what stocks you have, what money you have in bank, what property you have in general, either in your own name, or in other

persons' names, does it not? That is what you mean? A. Well, I don't mean that. I am willing to let the public know anything, but I decline to answer any questions touching on those matters that you refer to now.

Q. You have just now denied that you ever took any money from anybody, have you not? A. I do, sir, emphatically so.

Q. You deny that you took this money from Pryan? A. Emphatically so. I never received a dollar dishonestly for not doing my duty in my life. I defy anybody in the country, on that subject.

Mr. Moss—They have accused you, and we simply want to get the fact as well as you can state it.

The Witness—No.

Q. Listen to me. Is not this the first time you have ever, in court or before the police commissioners and on trial, denied that accusation that Pryan made years ago? A. I am denying it in public now.

Q. Is not this the first time? A. I was on the stand—

Q. Is not this the first time that you have denied Charles Pryan's charge in public, before a court or committee or Commissioners? A. I have never been questioned on it; never been put to me.

Q. You were charged with it before Commissioner Martin and others, and you were tried and convicted. Did you ever deny it before, in any formal way like this? A. I went to the same school as you, Mr. Moss, and I was learned to mind my own business.

Mr. Moss—Never mind that. I am minding mine now.

The Chairman—I think you had better answer that question.

By Mr. Hoffman:

Q. Were you ever asked that question? A. I never was asked that question; never before until now.

By Mr. Moss:

Q. You knew then that you were charged with it, and at that time you were captain of police and ambitious to be promoted. Do you admit now that this is the first time you have denied it before a public tribunal? A. This is the first time I was ever questioned on it.

Q. It is the first time you ever denied it? A. Yes, sir; emphatically so, too.

Q. Pryan is dead, is he not? A. Yes, and you can get your living witnesses now.

Q. I suppose we can. But Pryan is dead, and it is perfectly safe after the lapse of several years to deny that accusation now.

A. You have got a lot of live names you can mention there, too.

Q. You remember that Katie Schubert testified after Cross left the precinct: "Q. What did Captain Devery say about money?

A. \$500," replied Mrs. Schubert.

Mr. Hoffman—Are you reading from the evidence taken at the trial?

Mr. Moss—I am reading from an extract of the evidence, and my recollection is sufficient to know that it is correct.

Mr. Hoffman—From what? The newspapers?

Mr. Moss—Yes, from the newspapers now. But I will furnish the exact copy of the minutes, if you want to compare.

Q. I suppose that you deny that statement that Mrs. Schubert made? A. I certainly do.

Q. Is not this the first time that you have ever denied that accusation that Mrs. Schubert made several years ago? A. The same. It is the first time I have ever been questioned on it.

Q. Were you questioned about these matters when you were advanced from captain to chief of police in three months? A. I wasn't spoken to about anything touching on those matters.

Mr. Hoss—That is what I thought.

The Witness—You never spoke to me for two years that you was in the board about those matters, that I was acting as captain of police under you.

Q. You had a precinct on the west side of Harlem, One Hundred and Twenty-sixth street, while I was in the police board nine months, did you not? Yes, sir.

Q. And you had me under a stay of proceedings, which you got yourself, did you not? A. There was other commissioners in the board prior to that.

Q. I know; but you are speaking about me, and we will talk about ourselves, if you will have it so. And all the time that you remained there captain in the West Harlem precinct, Commissioner Moss never troubled you one particle, did he? A. Never called me to his office; never had any occasion.

Q. Never had any occasion to call you to his office? A. Certainly not.

Q. Never reprimanded you, never interfered with you, and left you entirely to your own ways, did he not? A. I must have been a first class officer or you would.

Mr. Moss—I will say now, Chief Devery, that you had the good sense and good judgment and wisdom to conduct your affairs, so far as I was able to know while I was police commissioner, so that they could not be questioned.

The Witness—I am glad you admit that.

Mr. Moss—And I will say this, while we are engaged in this discussion, that you might have stayed there so far as I was concerned, and for all that had happened in the last twenty years, and been content to remain a captain of police, restored by the Supreme Court, and attended to your duties up there. I would never have interfered with you; but when men are jumped over the heads of others, and advanced from captaincy to chieftancy in three months they must carry the responsibilities of that position. They bring their records up anew themselves.

The Witness—I am here to answer anything touching on that record.

Q. Do you remember what Rhoda Sanford testified, of No. 24 Bayard street? A. I do not.



Q. About her payment of \$500 to your ward man? You do not remember that? A. No.

Q. At any rate you have never denied that before until to-day? A. Never had any occasion to.

Q. Had you no occasion to explain that matter to the commissioners who recently advanced you? A. I wasn't questioned on it.

Q. And of course it was not your fault if you were not questioned. Of course not. Now, I want to ask you a plain straightforward question. Do you know why it was that, with all that had occurred in the past, which was unexplained, undenied, because you had had no opportunity, as you say—with all that had occurred in the past you should have been suddenly jumped from a captaincy to the chieftancy in three months? Why should that have been? Why was it so? How did it occur? A. Because I was a capable officer and could fulfill the position, and that I have got a clean record in the police department.

Q. Who told you it was a clean record? A. Myself, just now, to your answers; never gave it a thought before.

Q. When you were promoted from captain to inspector did you intend to endeavor to become chief of police? A. My intention was certainly bent that way.

Q. Before you were made an inspector did you intend to try to be chief? A. I would have, if opportunity permitted it.

Q. You intended it, did you not? A. My line has always been, an object in view, to go from the bottom to the top.

Mr. Moss—That is true, and I do not blame you for that.

The Witness.—What my intentions were at that time I don't remember.

Q. Do you not remember that while you were still a captain, you began to consider ways by which you might become chief? A. I don't think I did. I can't remember.

Q. But you have just testified that as soon as you were promoted from captain to inspector you began to consider it? A.



Just as I say. That was my intention, to always go from the bottom to the top, if I could.

Q. How did you expect to pass the civil service examinations in the steps between captain and chief? A. I took my chance, the same as any other commanding officer in the police department.

Q. Did you really expect to take examinations and pass them?

The Witness—Did I really think so?

Mr. Moss—Did you expect that you would do so?

A. I thought if I went before any examination that I could certainly hold my end, perhaps as good as anybody else.

Q. But did you expect to take an examination? A. Well, I can't say under this law, under the reorganization, that there is any examination. I could see very clearly that it was not necessary for me to take an examination.

Q. Then you began to consider the fact that there was a way in which you could work up without the examination, did you not? A. No.

Q. At the time that you had begun in your mind to work towards the chieftancy it was filled by another man, was it not?

The Witness—What is that?

Mr. Moss—At the time you began to conceive this ambition to become chief, the office was filled by another man, was it not?

A. Yes, sir.

Q. How did you expect to displace that other man and get in his place? A. I had no intention of displacing him.

Q. How did you expect to get in and leave him in it? A. Well, to be frank about that, Mr. Moss, McCullagh spoke to me and told me I was looking for his place, and I told him he was a very foolish man, that I had no intention of looking for his place, that both of us could get along. Now, I says, "I have got no idea, and I am telling you truthfully," and I says, "there is no reason why you should not be where you are; but for heaven's sake don't

lose your head." Now, I says, "That is the last thought on my mind, and I have never spoke to a person touching on the matter of your place," which I did not, and had no intention of getting his place at that time, and would like to see him there to-day.

Q. You had the ambition to be chief? A. Certainly.

Q. You had the ambition when you were made an inspector, and there was some little time that elapsed between the inspectorship and the chieftancy, during which time Mr. McCullagh occupied the higher position; you said you had that ambition? A. At all times, certainly; promotion and advancement.

Q. But in those grades no promotion could come without the retirement of the incumbent? A. Well, I was waiting for that time to come. I was willing to take my chance.

Q. And you thought it might come, did you not? A. Some day.

Q. Whom did you talk with about your prospects of promotion? A. I can't remember who I talked with.

Q. Have you ever in your life talked with Mr. Croker? A. I did not.

Q. Never in your life? A. Oh, yes.

Mr. Moss—That is what I asked you.

The Witness—I thought you meant touching on that question.

Q. No, no; when was the last time you talked with Mr. Croker? A. Within a week. I couldn't exactly say. It might have been within two or three weeks or a month.

Q. And before that when? A. Well, it might be two or three months. Just say, "How are you, chief?" passing by, or something in a casual way.

Q. But you have sat down and talked with him at some time in your life, have you not? You are accused of being a friend of Mr. Croker? A. I certainly am.

Q. Why not come out and admit it, then? There is no reason why a man should ever conceal his friendship, no matter what that friendship is? A. That is right.

Q. It is the most sacred thing in the world. You have already said that you have never talked about the possibility of your

becoming chief, but you have talked with other persons who were friends of Mr. Croker about it, have you not? A. I did not, not to my knowledge.

Q. You never discussed it with Mr. Carroll? A. Not to my knowledge.

Q. Do you not know, or do you forget? A. Well, I don't recollect that I did talk to him on it.

Q. But you discussed it considerably with Commissioner Sexton, did you not? A. No, I did not.

Q. Never discussed it with Mr. Sexton? A. No.

Q. Now, I ask you again, where does Michael Burgin live? A. 438 Tenth avenue.

Q. Were you on post last night? I mean, at that stationary post at Twenty-eighth street? A. That is not a stationary post.

Q. I got that stationary post idea in my head, because we were considering it just before we went out of office? Well, the "breathing place," were you there last night? A. I was.

Q. And there you met Commissioner Sexton? A. I did.

Q. How long did you and the commissioner stay there last night? A. Well, we stayed there half an hour. Not on the regular post that you speak of, but on the opposite corner.

Q. You moved the post? A. Yes, sir, I am in front of a butcher shop now.

Q. That looks a little better, at any rate? A. Yes, sir.

Mr. Moss—The meat will never harm anybody.

The Witness—The other place, no matter where you see them, so I thought I would get in front of the butcher shop. But I will say about half an hour there, and then we moved up through Eighth avenue and through Thirtieth street. I had some memoranda I got touching on the Broadway Garden. I might as well tell you.

Q. Were you working on the Broadway Garden matter last night? A. No; I wanted to get my questions straightened out about this place.

Mr. Moss—I thought that was closed.

The Witness—I wanted to get it straightened out. The Palm and Black Rabbit, you spoke to me.

Q. Is the Black Rabbit on Broadway? A. I was getting a memorandum——

Q. Is it? A. No, sir.

Q. Is the Palm on Broadway? A. No, sir; I wanted to straighten out this Paresis business.

Q. Is Paresis Hall on Broadway? A. No; it is not the Paresis. It is known as Columbia Hall. That is at Eighth street and Fourth avenue; I located it, and it is a Raines Law house. So is the Palm.

Q. Where did you learn that? A. You asked me questions and I wanted to straighten it out.

Q. You did not know it Saturday? A. I know; but I learned that from the records of the department, which I referred to you on Saturday. I thought I would straighten myself out.

Q. Have you got it down on the record with the name of "Paresis Hall?" A. No; Columbia Hall.

Q. How do you know that Columbia Hall is Paresis Hall? A. I don't know whether you are the one that originated the name "Paresis Hall" or not. I think some of the press has mentioned that and asked you some time ago what you meant by Paresis Hall, while you were in the board of police commissioners.

Mr. Moss—I may have originated the term, perhaps, but I asked you Saturday——

The Witness—I know nothing about Paresis Hall. It is Columbia Hall now. I want to straighten it out.

Q. I asked you Saturday if you knew where Paresis Hall was? A. I thought I did.

Q. Wait, Wait—— A. I am trying to straighten it out.

Q. Wait. You said you knew there was such a place. You never got that from me, did you? A. Well, I don't know; I may have heard it.

Q. From what records was it that you got the "Palm," and the "Paresis Hall," and these different things by their common names? Are they so written down anywhere? A. I inquired from the precinct.

Q. You said you got it from the records. What records? A. The excise license; they keep an account of it.

Q. Is it called "Paresis Hall" in the excise license? A. No, I told you. It is Columbia Hall.

Q. How do you know that Columbia Hall is Paresis Hall? A. It is rumored that the gentlemen you spoke of frequent there once in a while, as they do many other hotels in the city.

Q. You mentioned a number of other places that these gentlemen frequented. How do you know Paresis Hall and Columbia Hall are the same? A. I have never seen them in those places.

Q. I want to ask you what you were doing about this Broadway Garden. I was under the impression that you and Captain Price had cleaned that thing out? A. I certainly tried to clean it out.

Q. Was Price with you? A. No; he was not.

Q. What did you discover about the Broadway Garden which is all cleaned out? A. I am merely telling you where I was with Commissioner Sexton last night.

Q. You say you were going over some memoranda with Commissioner Sexton? A. No, no; Mr. Sexton had nothing to do with it.

Q. With whom were you going over the memorandum? A. I had made a request on the commanding officer of that precinct, Captain Price, to give me information touching on that, as to whether that place was a Raines Law license place or not.

Q. You were walking along the street. You had spent twenty minutes on the corner, and then you were walking along the street and you walked up to Thirtieth street, and you had a memorandum and were discussing this memorandum about the Broadway Garden. What was that you were discussing, and with whom were you discussing it? A. That went over the 'phone last night.



Q. The 'phone was not on the street, was it? A. I discussed it with the sergeant at the desk.

Q. You were discussing the Broadway Garden with the sergeant at the desk? What did you say to him? A. He showed me a memorandum he had touching on that place. I will tell you what it is in a moment. I think I have got it here. I wanted to find out if the place was really a licensed place, a Raines Law place. I try to know something about those places. There is so many of those places you can't keep an encyclopedia of them.

Q. In these days of great events and important duties, what were you spending your time last night on a dead place, when there are so many live places to look after? A. Because I was looking after my stomach last night. I went to Shanley's to get something to eat with Commissioner Sexton.

Q. You were looking after the Broadway Garden with a great deal of interest? A. I wanted to find out about a man that has been convicted heretofore and still is doing business, a Mr. Butler, that has got a license there. I wanted to be in a position to know something about it.

Q. Why? A. Nothing. I don't know why, only I would put this committee and the public in possession of the facts.

Q. You do know why. What hour of the night was that? A. About half-past eleven.

Q. You would not be doing those things and making memoranda about a dead place, simply because you saw a man in the court room, unless you had some reason? A. I certainly know I had tried to put him out of that place, and I didn't know but what you had him as a witness.

Q. Did you think he was going to be a witness against you? A. I don't know what he is doing here.

Q. There are lots of people here. Are you running around and inquiring into the business of all the people you see here? A. No; I am not.

Mr. Moss—I will tell the people that are here that they need not be afraid of any such thing.

The Witness—Oh, certainly not.

Mr. Moss—And that it does not hurt a man to have a chief of police running around at night inquiring about his old place that has been closed up by the police long ago. If there is anything on the record against a man, you have it, have you not?

The Witness—Yes, sir.

Q. Now, if you had time to look up an old dead matter in which you succeeded in closing up a place, why did you not put in some time last night looking into the places like Paresis Hall? A. Well, I have no complaint about those things.

Q. You had complaints enough on Saturday, did you not? A. The commanding officers of those precincts are held responsible for them, and they are looking after Paresis Hall.

Q. Suppose they do not do it, what then? A. If I find out to the contrary, I will place them on trial.

Q. How will you find out? A. I have got to hold them responsible.

Q. How do you hold them responsible? A. The inspectors—they look after the various captains in the different districts.

Q. And the captains look after the sergeants? A. Yes, sir.

Q. And the sergeants look after the roundsmen? A. Yes, sir.

Q. And the roundsmen look after the patrolmen? A. Yes, sir; and the general looks after them all.

Q. And the patrolman carries a heavy burden? A. Yes; and issue orders and they obey them, and I have got to believe the reports until I find out to the contrary.

Q. And you find out to the contrary by looking up dead issues? A. Those places have been attended to by me personally, and arrests made and taken into court, and we continue to arrest them all the time. The Raines Law hotels we take into court, and the judges invariably discharge them. We are coping with the situation the best we know how. The Raines Law is responsible for three-quarters of these places in New York city to-day.

Q. What kind of evidence do you take to the judges on these Raines Law hotels? A. Bona fide evidence; selling between the

hours of one and five o'clock in the morning; clear cases; got 40 of them last Friday and they were discharged last Friday in the Special Sessions.

Q. Why did you not arrest the bartender who was in the saloon when he was selling whiskey right behind your back, and you were standing on the corner? A. I didn't know he was selling whiskey.

Q. You have gone in there yourself, to drink, have you not? A. If I run around—of course, that is my corner; that is my home. I have been born in the city. I have got to go by that corner to go home. I stand there occasionally. I am attending to my duties all the time and every place. I have got five boroughs to keep in touch with. I don't make that corner as what it might appear here, a regular standing place. I have some other duties to perform.

Q. Perhaps you can tell me in answer to this question how it is and why it is that even while this Committee is sitting in session the pool rooms are running all around us, and I have in my pocket money that my men have won in the pool rooms. How is that? A. Perhaps one of my commanding officers have, too. They are looking after that just the same as what you are.

Q. But they are running. The pool rooms are running. A. Have you made any complaint to the commanding officer touching on it? Have you to me?

Q. Yes, I make complaint to you now, in general terms, that if you will open your eyes and walk up and down Broadway and Centre street and Nassau street and Fulton street and all around here, you will see the signs that an old police officer can never fail to understand. A. If you have the money in your pocket, or any evidence touching on it, I will send out warrants now and place them under arrest.

Q. Has not that always been the trouble, that a poor citizen comes up to a policeman who is paid a salary for doing these things, and you expect the citizen to go and get the evidence and spend his time and go to court, where he may be treated fairly or unfairly, as the case may be, while you people wait and state

that you hold the subordinates responsible? A. We certainly do not. But officers become known. You change them from time to time, and you get all kinds and grades of men. You get them from five feet to four feet and a half high, and six feet high and so on.

Q. Do you mean to say here, as the chief of police—— A. My men——

Q. Do you mean to say—— A. One moment!

Q. Stop and listen to me. A. My men——

Mr. Moss—No, stop the witness. I am willing to let it go a little way——

The Chairman—You must stop and listen to the question before you can answer it.

Q. Do you mean to say, as chief of police sitting here, and solemnly declare to this Committee, that you are unable with the money and men and resources at your command to close the poolrooms? A. We do the best we can.

Q. Are you unable? A. We cope with the situation.

Q. Were you unable? A. No, sir, we do the best we can, as we did when you were commissioner.

Mr. Moss—I closed them.

The Witness—You did not. Your commanding officers at that time reported them the same as they do to me now.

Q. There was some fatalities about that business.

The witness—Some what?

Mr. Moss—Some fatalities. Do you know what I mean?

The Witness—On that business?

Mr. Moss—Yes.

A. And there ought to be now. There was a good many forced fatalities, too.

Q. I want an answer to this question. If this evil is so great, if this gambling evil has grown on us so great, and is so thor-



oughly entrenched, that with all the money and force at your command you cannot stop it, these gentlemen have got to devise a way to do it. Are you unable to do it? A. The wording of the law, perhaps does not suit. We are coping with the situation, as I told you, all the time, getting evidence with our men, arresting those people on bona fide evidence, even on the evidence of outside societies, and taking them into court and they are discharged. Even in the case that you spoke of here the other day, which was bona fide and from the outside, they were discharged. As I say, in forty of the excise cases we brought into court, boni fide cases, between the hours of one and five o'clock in the morning, they were thrown out. The officers were not asked any questions, except "Has he got a Raines Law certificate?" "Yes." "Discharged." Still we have got to cope with the situation.

Q. We will have to put some of these police magistrates on the rack, according to your story? A. I can't help that. I have got to tell you the truth.

Q. Then the truth is—we have got it at last—that for some reason or other, and you now charge it upon the magistrates, you are unable to close them? A. We continue doing the best we can.

Q. What is that best? Are they closed, or are they not? A. There are alleged places.

Q. I know there are alleged places, and I allege them now. Are they closed or are they not closed? A. I could not tell you that.

Q. Are they running to-day or are they not? A. I couldn't tell you that.

Q. Were they running Saturday or were they not? A. I couldn't tell you that.

Q. Have they been running any day within a week? A. I haven't heard any report to the contrary touching on matters of that kind. There are alleged places. They may be running; that may be.

Q. Have you since you were questioned on Saturday discovered any of these men that are responsible for the pool rooms? A. Have I discovered any of them?



Q. Yes; you didn't know them then. You never heard of Mahoney's responsibility and Gleason's responsibility for pool rooms. You had never heard of the wires over Tom Ragan's printing shop in Forty-second street. Have you discovered anything new about it? A. I have not.

Q. Have you tried? A. I did not. I didn't have time.

Q. Do you intend to? A. I certainly will look into any matter complained of to me.

Q. It has been in the public print here for weeks and weeks. Isn't that complaint enough? A. I have been looking after those matters all the time.

Q. While you have been here your subordinate officers, deputies, inspectors and captains, down to patrolmen, have all been out, have they not? A. They have been doing their duty in their districts.

Q. Has your department made a single arrest in a pool-room case in the last three days? A. You will have to look at the records.

Q. Do you know of any? A. I have not had time to look the records over.

Q. Have you heard of any? A. I haven't heard of any.

Q. Or within the last week? A. You will have to look at the record. I can't answer the question.

Q. Or within two weeks? A. The records will show.

Q. Or within a month, can you tell of a single pool room? A. I say the records will show.

Q. Do you recollect a single pool room arrest in this city in the last month? A. The records will show. They are open.

Q. You do not remember, do you? A. I do not.

Q. Can you tell of a single policy arrest in this whole city within the last week? A. The records will show that.

Q. Can you tell of a single policy arrest in this whole city within the last month? A. The records will show that.

Q. Do you know of any? A. The records will show that.

Q. Do you know of any? A. No, I can't recall that.

Q. You do not remember anything about it. Can you tell of a single arrest, or rather of a single raid upon a gambling house in the city for the last month? A. You will have to look at the records for that.

Q. You do not remember, do you? A. The records will show that.

Q. You do not remember one of them, do you? A. The records will show that—the reports and records. I have got too much to attend to to remember that.

Q. You do not remember, do you? A. They may have been; I can't recall it.

Q. Can you recall a single raid upon a gambling house in this city within the last three months? A. I can't recall anything without the records of the department. You can go over that.

Q. Here are three great evils of importance, the immensity of which has been demonstrated very thoroughly in the press—gambling houses, pool rooms and policy shops; and you cannot recall of your own recollection, you who are charged with the enforcement of those laws, a single arrest in any of those classes of crime within the last month; and as to gambling houses within the last three months, can you? A. Those matters, as I told you heretofore, are referred to the commanding officers—all matters that the press show. Now, they give them attention or the places are closed; or if not, I would have heard to the contrary in some way, and I have not. I have heard no complaint whatsoever.

Q. What do you do for your salary? A. I look after the force as a whole; look at all reports that come in, touching all matters of that kind that you refer to—touching on policy, gambling and alleged gambling, alleged pool rooms, alleged policy or alleged crime of any kind. They all pass through my hands. I promulgate all the orders to the force, and I provide all equipments—touching on the equipment of the men—and look after everything in general, no matter what it is, about the police department.

Q. You have a large force of men there—you have an office force, and have deputy chiefs to assist in all that work, do you not? A. That is the reason I say you will have to look at the records.

Q. That is the reason I will have to refer to them, because you have an office force and deputies? A. I look after them, and they make them a matter of record.

Q. You have time enough to dispose of all of your duties by getting down to your office at the time you testified the other day and spending your evenings and taking the fresh air? A. Without leaving the office from twelve o'clock in the day to eight o'clock at night; without leaving the chair.

Q. Without leaving the chair? A. Hearing all complaints of anybody that may come there, from the meekest to the highest, touching on anything, no matter what it may be, and giving it prompt attention.

Q. I asked you Saturday if you had ever seen the Morning Telegraph; have you seen it since? A. I have not; I don't read the paper.

Q. Do you not know how many officeholders generally are required to take the Morning Telegraph? A. I do not.

Q. It costs five cents. A. I have never read the paper.

Q. For five pages. A. I have never read it.

Q. Here is a paper which is remarkably lean as to advertisements and remarkably extended as to common literature; and its advertisements consist principally of racing information, of court notices and of massage advertisements? A. I have never seen them.

Q. Never seen them? A. I have given some orders touching on that subject, but I have never read that paper.

Q. You look upon this general mass of massage advertisements as being simply a cloak for disorderly houses, do you not? A. Well, to a certain extent.

Q. Yes, and to a large extent. A. Oh, you can't say that. There is massage in all ways. Perhaps it is for alleged disor-

derly purposes and other purposes; there are various kinds of massage.

Q. But it is a common disguise, is it not? A. Yes, sir.

Q. You ought to take this paper for the court notices, if nothing else. I am surprised that the chief of police does not know anything about so important a paper as this, that costs more than any other morning daily, and I will make a present of this to you, so that you can run over that massage column and give relief to the people who have been pestering me for months to have these things suppressed. A. I will certainly attend to them, because I don't believe in the system—to have anything of that kind going on. The reason is that they generally occur in flat houses or tenement houses, where that kind of thing goes.

Q. I am very sorry for the massage houses now, unless you mean to refer these to the deputies and have them refer them to the inspectors, and hold them to a strict accountability; then my sympathy is wasted. A. That is just the way it will go.

Q. And do you think—— A. But I will go a little further. I will make a success out of it, the same as I tried to do at everything else—if I can.

Q. You have been so kind as to do that; will you make the same bargain on the poolrooms? A. That I can't promise.

Q. Why not? A. Because they can make those books in their hands, or a grocery store, or butcher store, or any place. It is just like policy. You know what it is to cope with that.

Q. I know all about it, and I appreciate your position there. A. I will promise you I will try to stamp it out—the same as I promised this thing.

Q. I appreciate your position there. A. It is uncomfortable, I can tell you that.

Q. It is uncomfortable, and it does not give me a bit of pleasure to go through this business—not a bit; but I am going to ask you, in the difficult position you are in, and with the hope that perhaps you may be able to save yourself and break some of these shackles. Who is it that holds you back? A. Want of evidence.

Q. Who is it that holds you back; you can answer that question? A. Not that that lives, to do my duty.



Q. You do not mean to say that— A. I am the chief of police for the people.

Mr. Moss—I am talking. Put your hand down.

The Witness—You can rest assured—

Q. How many years have you been in this department. A. Twenty-one years.

Q. You began as patrolman? A. I did.

Q. You have gone all the way up? A. Yes, sir.

Q. You are chief of police? A. Yes, sir.

Q. And you have a gold badge on your breast now? A. Yes, sir; and a good record behind it.

Q. Do you dare stand here in the face of this whole city and say that you cannot close a little miserable lot of pool rooms? A. I am telling you the difficulties, Mr. Moss, and you know I am telling you the truth.

Q. Can you do it? A. I will certainly try to.

Q. Can you do it? A. I will do my best.

Q. Can you do it? A. And when I do my best I can't do any more.

Q. I ask you again, who is it that interferes? A. I tell you and tell you frankly, not that that lives.

Q. Are you not interested in them yourself? A. No, sir, emphatically no. •

Q. Are you not sharing the proceeds of pool rooms with Frank Farrell? A. No, sir.

Q. Are there men—It is not a smiling matter, chief. A. No, I know, but I want to explain myself.

Q. There is nothing to straighten out but to stick to the straight line. A. All right, I will stick to it.

Q. Are there not men that are prominent in this city government, either in office, or by reason of their political connections that are responsible for these pool rooms? A. No, sir.

Q. Have you found out that James Mahoney has anything to do with pool rooms? A. I have not.



Q. Then of course you do not know who is Mr. Mahoney's partner, do you? A. I do not.

Q. You never heard of James Mahoney? A. I have heard of James Mahoney.

Q. While I think of it, you are so willing to take things, I will hand you that. It is a card of admission to the Ki-Ki, Shadow, Rag-Time, and such things as that, and you will probably need it to go in. A. In the Ki-Ki Manilla that you hand me here, we restrained that place and drove them to the wall, so much so, by arresting them, etc., and taking them into court, and their licenses revoked and returned to the excise board; and to defy the police they got a club license and are still going on with their business.

Q. You do not mean to say—A. And we are doing the best we can with the Manilla.

Q. You do not mean to say that a club license can prevent you from breaking into a disorderly house, do you? A. We have arrested them as a disorderly house, and as Raines Law hotel, and everything touching on that, and this is one of the instances where a club license, which I would suggest to this committee is a very bad thing, and the law in that respect might be touched on, that should be shut out. They go right on and defy us, but we keep on arresting them and they are discharged.

Q. I will tell you what you did in that case. The World published day after day the accounts of disgusting conduct of the Black Rabbit and the Owl, and a lot of those places down on the Bowery, and after those things were published, and the matter got hot, you people went in and did something. A. No, sir; I tell you now frankly, you can get the proprietors of those places, that I sent for them and I told them that if they did anything out of the way I would use my utmost endeavors to break their licenses and send them out of business.

Q. Whom did you send to prison? A. I tried to do it. Did the best I can. Just as I told you. I am coping with the situation all the time right with my own men.

Q. How many men have you under your command? A. 7,500 men, pretty near.

Q. How much money does your department cost in a year? A. You will have to look at the records for that.

Q. Do you not know? A. It must be nigh on to ten or twelve millions of dollars, I presume.

Q. Ten or twelve millions of dollars and over seven thousand men. We were talking yesterday about Mr. Matthews charges, as you remember, and we did not get very far with them; but I understand you to continue to deny Mr. Matthew's accusations. Did I understand that right? A. I did at that time, yes, sir, from the reports of my commanding officers.

Q. Who was in command of the Nineteenth precinct—that is east of the Bowery—at the time those accusations were being made? A. I think it was Captain O'Keefe, who is dead now.

Q. And after him came Stevenson, did he not? A. No, prior to him Stevenson, I think. One moment, prior to Captain O'Keefe, Stevenson.

Q. Yes, it was Stevenson, and then O'Keefe, and then an acting captain. What was his name? Sergeant Zimmerman, was it not? A. I think it was.

Q. And then suddenly you sent Captain Chapman there? A. That is right.

Q. You knew what Captain Chapman's reputation was in dealing with that class of law breaking, did you not? A. He has a reputation of dealing with that kind of matters.

Q. In a very vigorous way? A. Yes, sir.

Q. He had been subjected to a great deal of public criticism for his vigorous way of dealing with the street walkers in the tenderloin precinct. You had that in mind when you sent him down there, did you not? A. I was ordered to send him there by the president of the board.

Q. But you had that in mind when he went down there, did you not? A. I knew he would make a good man when he got there.

Q. And you were ordered to send him by the president of board, Mr. York? A. He must have some idea of sending him there.

Q. What right has the president of the board to order you to

send a captain anywhere? A. He makes requests at times of the chief, the same as you would when you were there.

Q. Then it was a request and not an order? A. A request.

Q. Was it a forcible request? A. No.

Q. What was the idea of sending Captain Chapman down there? A. As captain of the precinct to see whether there was any matters going on.

Q. Was he not sent there to change the conditions that had been complained of? A. To do the best he could.

Q. To change the conditions that had been complained of, was it not? A. Something touching on it.

Q. Yes. That was it was it not? A. Yes, sir.

Q. There must have been something to change, to send that man of the axe, down into the red light district, and there was something, was there not? A. It is a pretty hard place to change.

Q. It is a pretty hard place to change? A. It is a pretty hard place.

Q. Then it was a place that needed changing, was it not? A. Well, it needed changing, certainly. There is more or less alleged matter going on there.

Q. What do you mean by alleged matter? You are constantly talking about alleged matter? A. Yes, sir.

Q. You know those things are done there, do you not? A. I know there are various matters done there and elsewhere.

Q. Matters that are not honest. That is what you mean, is it not? A. Well, now, to be frank with you; yes, sir.

Mr. Moss—That is what you ought to be, frank.

The Witness—In such a way, through your crusade, you drove them into the flat houses and it has been impossible to get them out, and Chapman is one of the kind of people who would throw in doors for you and perhaps thought he might do it for this board, irrespective of evidence or anything else, and I was only too willing to have him do it or any commanding officer under my command to go on and do it, if they would do it; but the tenement-house district is pretty bad and it is still alleged to exist down there.

Q. What did you mean by denying what Mr. Matthews charged then, if you tell the truth—— A. Because I think Mr. Matthews—I believe my reports of my subordinate officers until I hear something specific touching a matter of that kind.

Q. You did get something specific, did you not? A. No; I did not.

Q. Did not Chapman find the places and go down and smash them with an axe? A. If you take an axe you can find things.

Q. Why do you not take an axe, then? A. Not me.

Q. You will stop at that? You do not believe in using the axe, do you? A. I believe in enforcing the law.

Q. Do you believe in using the axe when it is necessary? A. If it was an extreme case, where I wanted to really stop people, yes.

Q. Then you do believe in the axe? A. And I have done it myself.

Q. You say you did it up there in John Kelly's, in Forty-first street? A. Yes, sir.

Q. Was the axe really used on the door? A. It really was.

Q. Did not John know you were coming? A. No, sir.

Q. Did not John's friends know you were coming? A. No.

Q. Was not the stuff already packed for you to take? A. No, sir.

Q. Do you know that, or are you only guessing? A. I am not guessing it at all. I went there to get John and his stuff.

Q. You got the stuff? A. Yes.

Q. That is all you got? A. That is, in the line of gambling material.

Q. That is all you got? A. Ten or twelve prisoners.

Q. What became of them? A. Taken into court.

Q. What then? A. Discharged and the stuff turned back.

Q. The stuff turned back? A. Yes, sir.

Q. What was the stuff? Gambling stuff, was it? A. Yes.

Q. What right had you to return gambling stuff to the gamblers? A. They got an order from the court.



Q. Did you appeal it? A. I don't know. There were reasons why.

Q. Was it an ex parte order? A. I couldn't say. The records will show.

Q. Does not the law provide that the police shall destroy all captured gamblers' apparatus? A. I don't appeal those cases, personally.

Q. You do not appeal those cases? A. Personally, it is a matter of record. You will have to refer to the record as to how they got that stuff back. I took it in good faith, but didn't let it go back in good faith.

Q. You and Captain Price, who stands there and was in the precinct at the time, were responsible for that place of John Kelly's, were you not? A. Captain Price is responsible for any matters in his precinct.

Q. And you are responsible above him? A. I hold him responsible.

Q. You are responsible above him? A. I don't want any matter of that kind going on, or alleged matter, if I can stop it.

Q. You are responsible, no matter what you want? You must answer my question? A. I am responsible. I am responsible to the people.

Q. When you knew that the gambling apparatus went back to John Kelly's, what did you do? A. I have given it attention ever since.

Q. What kind of attention? A. Trying to get the proper evidence against the place.

Q. Now, look here: There was a little friendly visit, an axe party in a wagon; you went up there and you did not find Mr. Kelly, and you did not find the partner, O'Keefe. You found a dozen poor fellows and some stuff that you are willing to call gambling apparatus. You had no axe against O'Keefe; you had no axe against Kelly, though Kelly lives in the house. You did not work up any case and there was nothing to hold there. The twelve poor men were discharged and there remained a lot of gambling material. You allowed those people to go into court in some way that you do not know anything about, and they got a formal order for the return of that stuff, which you never ap-



pealed, which went back to that place; and the inference is irresistible that it went back there to be used. Now, with those elements of a beautiful case, that any reporter at this table would have jumped at a chance of developing, what did you do? A. The same as we done before that, tried to get evidence against the place.

Q. And you held your subordinates responsible, did you not? A. Under the rules of the department; yes, sir.

Q. Under the "rules of the department"—a book? A. The same kind of a book as they had when you were there.

Q. What would be the effect, do you think, if those men should be held accountable to a real live man and not to a book? A. That is right.

Q. That would be right? A. That is right.

Q. Do you think if it was done there would be any better result?

The Witness—What do you mean by a real live man?

Mr. Moss—I mean a man who knows that he is alive, in the police sense. You know what that means, do you not? A. I know I am alive all the time, and I keep everybody alive around me, too.

Q. You know that is a police term? A. I keep everybody alive around me

Q. On the same line, Captain Herlihy's district was under the same accusation as the Twelfth was, and you removed Captain Herlihy. You sent him uptown. What did you send him uptown for? A. Because I had no confidence in him.

Q. You were ordered to do it by Commissioner Sexton, were you not? A. I was not.

Q. Did Commissioner Sexton speak to you about it? A. He did not.

Q. Did anybody speak to you about it? A. No, sir.

Q. That was on your own motion, was it? A. Yes, sir.

Q. Then you were responsible for sending Captain Herlihy uptown? A. I certainly am.

Q. Why were you not confident of him? A. Well, I don't know.

Q. Was it because you found there were things in his precinct that you thought ought not to be there? A. I didn't wait for that. I didn't think he had executive ability enough to stay there.

Q. Did you know anything about his precinct? A. No; not virtually.

Q. You did not investigate the precinct? A. No.

Q. Why did you send Captain Diamond down there? A. Because he thoroughly understood that district. He is a disciplinarian and he lived there and could cope with the people there, and I thought he would make a good captain down there. I had no interest in Captain Diamond.

Q. It was for the purpose of cleaning up the precinct? A. Certainly.

Q. And you sent a clean man to do it? A. I certainly did.

Q. And a man who, if he is let alone, will do his duty? A. He will.

Q. If he is let alone he will do his duty? A. He certainly will.

Q. How is it that you have put such men as Captains Chapman and Diamond in such precincts and held them there all the time? What did you put them there for? A. No object whatever in doing it.

Q. Diamond's precinct includes such places as McGurk's the Dewey Theatre and Hochstine's Hall, doesn't it? A. Yes.

Q. Yet those places are in pretty bad shape, are they not? A. I haven't heard anything touching on any disorders there of any kind, only in the press on McGurk's place some time ago.

Q. A short time ago the papers were full of the suicides of the poor unfortunate girls in McGurk's, were they not? A. Not in McGurk's. Out on the corner.

Q. They had been in McGurk's and went out on the corner? A. It is alleged. I don't know anything about it.

Q. You yourself have occasionally visited Dewey's Theater and seen the performances as a guest? A. I have never been there, no, sir.

Q. Why is it you have not disciplined Captain Diamond for not stopping those places which I have mentioned, which are acting in a disorderly way? A. I have not heard any complaints touching on them.

Q. You have heard the complaints about McGurk's, which have almost reached around the world for some time, they are so interesting and thrilling and specific. Why have you not disciplined Captain Diamond for not suppressing McGurk's place? A. He done the best he could. He arrested McGurk's barkeeper and manager there. The Supreme Court has the case before it now, touching the breaking of his license.

Q. Have you not forgotten something? You remember after you sent Herlihy away that Captain Delaney went into that Fourteenth precinct? A. That is right.

Q. Have you confidence in Captain Delaney? A. I did.

Q. Have confidence in him still? A. Yes.

Q. Why did you move him away and send Diamond in his place? A. I thought Diamond was a younger man and would make a better man in that district.

Q. Is that the only reason? A. I sent Diamond there because he is a good man and he is a good republican.

Q. Certainly; because he was a good republican? A. Yes.

Q. And it was difficult district? A. A difficult district.

Q. And you proposed to be ready for the investigation, did you not? A. No, sir, it never touched my mind.

Q. Is that a republican district? A. No, sir.

Q. It is a heavily democratic district, is it not? A. I couldn't tell you that.

Q. What was your object in putting over these poor democrats down there this vigilant republican captain? A. Because there was only three or four of those democratic captains and I have got some forty precincts in New York.

Q. You said you put him there because he was a republican. Why did you put a republican captain there over all that good solid democratic population? A. I told you he is a young man

and a good disciplinarian and thoroughly understood that precinct.

Q. Then when you said he was a republican you were not thinking of what you said? A. I thought you were trying to get at the political end of it.

Q. So you told me what the political reason was? It was a political reason, was it not? A. No, it was not.

Q. How could you tell me it was a political reason, if it was not? A. The mere fact that he was a disciplinarian and a man who could cope with the situation in that precinct, and that is the reason.

Q. Did you not find Mr. McGurk and Captain Delaney were pretty thick in that district? A. I did not.

Q. While we are speaking about these places that are allowed to run, do you remember the murder that occurred in the policy shop, 215 Fifty-ninth street, on the 28th day of February, 1898? You remember murders, I guess. Those are of sufficient importance for you to remember?

The Witness—When was that?

Mr. Moss—February 28, 1898, just about a year ago? A. No, that didn't come to my notice. I was not in my position at that time. I think I was in Brooklyn, and an inspector. That was under Chief McCullagh's time.

Q. The fact that a murder occurred there has never been brought to your attention, then? A. It has not.

Q. If you had known that a murder had occurred in that policy shop, would you have seen that it was closed? A. I certainly would try to close it.

Q. How did you account for the action of your immediate subordinate in that precinct, in allowing that policy shop to open the very next day after the murder was committed, and keep running to this very day? A. I can only answer for my time.

Q. In your time? How did you account for it? A. The captain of the precinct must be giving it his attention.

Q. What kind of attention can he have been giving it? A. There may be an alleged policy shop there. And a man may



go around from house to house and make a tenement house canvas, or go from a butcher shop or a liquor shop.

Q. He has been there all the time? A. I have never heard of it.

Q. If a private citizen without a uniformed man at his command can find these things out, why can't you? A. We are coping with those situations.

Mr. Moss—You are not coping with them.

The Witness—You say the next day. My predecessor had two or three months at it.

Q. I say now, how is it? A. If you say it is going on now and you have any evidence touching on it, I will put the commanding officer of the precinct on trial.

Mr. Moss—I am not furnishing you with evidence.

The Witness—I tell you what policy is. You know it as well as I do: Those men will write it in their hats or any place. You have to keep chasing them from door to door. We are coping with that situation all the time.

Q. You know as well as I do that you will never make any headway against policy by attacking the poor miserable little fellows that run around cigar shops and tenement houses. You know as well as I do that the policy business is controlled by big gamblers, who have big capital. There is the place for you to strike. Why do you not go up to the top and hit them. Here the other day I asked you who they were and you did not know except that you remembered or had heard that your friend Mr. Adams was connected with it in some way, and that Keeley Parker, your friend, was connected with it? A. I told you then and I tell you now that they are no friends of mine.

Q. Then why do you not go for them? A. Mr. Moss, you thoroughly made an investigation of all those matters and you found out how difficult it was.

Q. I wish I had been there a little longer. I tell you that frankly. I was getting interested. A. You ought to go on with

your information and I will act on it. I am there for you. I am there for the people and I will cope with the situation on anything you want us to do touching these matters.

Mr. Moss—When we maintain a police force and pay a chief to look after it, we expect him to do that kind of work. A. You found it very difficult during the time you were there. You were there nine months. I am only there ten months. I am doing the best I can. Any place you will indicate to us I will pick it up and look after it.

Q. Do you mean to compare a commissioner of police with the chief of police, who is the executive officer and in command of the field and in command of thousands of troops? Do you mean to compare those two positions in the matter of actually enforcing the laws? A. I keep in touch with everything. We have to do it. We have a large amount of territory to cover.

Mr. Moss—I see you evade the question.

The Witness—I don't wish to evade anything.

Mr. Moss—You know very well that all the commissioner can do is to hold you to a strict accountability. You know that.

The Witness—I know that he can dismiss me from the force.

Mr. Moss—Not before he tries you.

The Witness—For not doing my duty.

Mr. Moss—Not before he tries you.

The Witness—Yes, sir, right now. On the full vote of the board and the approval of the mayor.

Q. To be sure; but you know before a man can be dismissed from the force he has got to be tried, and you learned in your experience that if you were not tried right, even though you did not deny the accusations, you would be restored by the court. You learned that, did you not? A. No, Mr. Moss, I did not.

Q. You ought to have learned that. That was a very patent lesson in your experience? A. I think I have been doing pretty well in my place.

Q. Do you remember the time when all the pool rooms in New York city were closed in one day by the simple word of one man who was not even on the police force? A. No, sir.

Q. Did you ever hear of that? A. I never did.

Q. Did you ever hear of the time when one man became interested in racing horses, and on one little word all the pool rooms in New York were closed up tight? A. I never did.

Q. And you cannot imagine who that man was, can you? A. No, sir.

Q. You could not even guess? A. No, sir.

Q. You never heard of Richard Croker's name mentioned in connection with that fact, did you? A. I did not.

Q. Supposing Mr. Croker should command you to-day to close up the pool rooms, do you think it could be done? A. He would not make any such command on me.

Q. He would not make any such command on you? A. I let nobody make commands on me. I am there for the people, as I told you.

Mr. Moss—Well, chief, the people command you.

A. Yes, sir; at all times, day and night.

Q. It is to be hoped that they will follow your suggestion and hold you to that strict accountability that you have mentioned occasionally. A. I am subject to their complaints and will act on them at all times.

Q. You are required to make a careful investigation; only last October you were so required, of those matters, gambling and every kind of law breaking in the city of New York, were you not? A. Yes, sir.

Q. And there is a copy of the order, right on the pink paper of the Department. Is that the order? A. (After reading.) I believe there was such an order.

Q. Is this a report or a copy of a report, which you make in answer to that order?

(The witness reads the report.)

Mr. Moss—While the chief is reading that I will read the resolution of the police department.

Mr. Moss then read the following:

" Sir.—The following is a copy of a communication received at this office from the honorable the board of police:

" (Copy)

" Police Department of the City of New York,

" 300 Mulberry Street,

" New York, October 20, 1898.

" William S. Devery, *Chief of Police*:

" Sir.—At a meeting of the police board held this day the following proceedings were had:

" Whereas the public press of the city having charged that gambling and other violations of the law exist in the city of New York, it is

" Resolved, That the chief of police be and is hereby directed to report with all convenient haste to the board as to the truth or falsity of such statements, and that he report also in detail what has been done for the purpose of preventing gambling and other violations of the law in this city.

" Very respectfully,

" WM. H. KIPP,

" *Chief Clerk.*"

" In compliance with above resolution, you will send to me with the morning returns on Monday, October 24, 1898, a report 'as to the truth or falsity of such statements,' and will also report in detail what action has been taken or caused to be taken by you in preventing gambling and other violations of the law within your district or precinct, from May 21, 1898, to date.

" In making this report you will give a tabulated statement showing the number of arrests you have made for such gambling and other violations of law as are charged by the public press, as above set forth, during the time specified, and the disposition thereof.

" You will also furnish me with a list of the members of your command who have been engaged specially in the prevention and detection of such violations as charged.

" You will also report at the same time as to the general condition of your precinct with respect to gambling and other violations of law as alleged.

" WILLIAM S. DEVERY,

" *Chief of Police.*"

This is addressed to the captains in compliance with the resolution of the board.



Q. Have you finished reading your answer to that? A. Yes.

Q. That is your response to it, is it? A. Together with the reports touching on that.

Mr. Moss then read the following:

“ Police Department of the City of New York,

“ 300 Mulberry Street,

“ Office of Chief of Police,

“ New York, November 18, 1898.

*“ To the Honorable the Board of Police:*

“ Gentlemen.—In response to the resolution adopted by your board on October 20, 1898, I beg to submit to you herewith reports made to me by the commanding officers of districts and precincts relative to the subject-matter of the resolution referred to, from which it will appear that the published statements to which reference is made are false. .

“ As to what has been done for the purpose of preventing gambling and other violations of the law in this city, I would state that from time to time I have called the commanding officers together and have instructed them to use the members of their respective commands to strictly and impartially enforce all the laws and ordinances in force in this city.

“ I have in addition from time to time issued orders, general, special, verbal and written, directing them to see that the laws and ordinances are strictly and impartially enforced.

“ Whenever notice has come to me, in any manner, either through letters received by me direct, through communications forwarded to me by your board, or through complaints made to me in person, of violation of law of any kind, I have invariably referred such communications and complaints to the inspector or the captain having charge of the district or precinct in which the alleged violation occurred, and have seen that proper and necessary action was taken in connection with each case. Where the evidence justified such a course, arrests have been made.

“ The commanding officers of the detective bureaus of this department have been directed by me to use the force of their commands in discovering places where violations of law were occurring, and to use all proper means to get evidence against such places and cause the arrest of the proprietors or persons operating them. .

“ I have also assigned to my own office a number of men whose special duty it is to patrol various parts of the city for the purpose

of locating places where violations of law occur, and obtaining evidence against such places.

"I have had daily conferences with commanding officers of boroughs, districts and precincts, and I have directed them to see that all laws and ordinances were strictly and impartially enforced. From the reports submitted to me by commanding officers of this department, and from my own observations, I am satisfied that they are using all proper means to enforce all the laws and ordinances within their respective jurisdictions.

"In concluding this report I beg to call your attention that the city of New York contains between three and four million people; and that in this city, as in every other city, and every town, village and hamlet, more or less crimes and offenses against the law are committed every day. The records of this department, however, show that so far as concerns such crimes and offenses in this city, the police are active in suppressing the same and arresting the persons who commit them. I shall continue to see that this activity is not relaxed, and that proper action is taken in each and every case of violation of the laws and ordinances that comes to the knowledge of this department.

"I would also state that the records of this department show that the condition of the city of New York, with regard to the enforcement of law, is to-day better than it has been at any time during the past three years.

"Very respectfully,

"WILLIAM S. DEVERY,

*"Chief of Police."*

Endorsed on back as follows:

"Chief of police, relative to resolution of board directing chief to report on a communication published in Harper's Weekly, entitled 'Wide-open New York.'

"On file

"Police department,

"Nov. 18, 10.34 a. m., 1898,

"Office of chief clerk.

"By order of the board.

"WM. K. KIPP,

*"Chief Clerk."*

Q. Are these the reports of the captains (handing to the witness a number of reports)? A. I believe those are the reports. That is their writing; evidently their reports.

Mr. Moss then read the following reports:

“POLICE DEPARTMENT OF THE CITY OF NEW YORK.

“Precinct No. 12,

“NEW YORK, *October 26, 1898.*

“WILLIAM S. DEVERY, *Chief of Police:*

“Sir—In answer to communication dated October 21, 1898, relative to resolution passed by the honorable board of police commissioners, desiring a report as to the truth or falsity of the statement of the public press of the city, charging that gambling and other violations of the law exist in the city of New York; also a statement in detail showing what action has been taken or caused to be taken by me in preventing gambling and other violations of the law within this precinct from May 21, 1898, to date, I would state with reference to this precinct there is no truth in the allegation.

“Relative to the action taken by me in the suppression of gambling and other violations of law within this precinct, I would state that Detective James A. Murray and James A. Hart, of my command, also Patrolmen Martin Casey, John Gerlinger, Allen Hay, James Reilly, Phillip J. Carroll, George Kohlman, John J. Maher, James F. Lorigan, Charles R. Young, Myles Cunningham, William H. Krusler, William F. Sheehan, Patrick J. Callahan and Daniel Connolly of my command, whom I detail in citizen's attire, have been instructed by me to visit each day and night, at uncertain hours, any and all places alleged or suspected of violating the law, for the purpose of obtaining any evidence against the same.

“I have also detailed other patrolmen in plain clothes, during their tours, as a precautionary measure, to visit places where, in my opinion, violations of the law were likely to be planned or occur, and am satisfied there is no truth in the accusation.

“The Liquor Tax Law is uniformly enforced and well observed throughout this precinct, and wherever any violation of said law is detected, the party so offending is promptly arrested and brought before a magistrate to be dealt with according to law.

“I would also state that there are no gambling houses, pool rooms, dives, disorderly flats, houses of prostitution or assignation, bed houses, disorderly music halls, stale beer or knock-out joints, badger or panel games or resorts where prize fighting exhibitions are given, located within this precinct.

“Places which are suspected to be such are kept under strict police surveillance both day and night, and whenever any evidence can be obtained that the law is violated, prompt measures are taken to suppress the same and the guilty parties promptly arrested.

"The general condition of this precinct is good, all laws and ordinances are carefully, impartially and strictly enforced.

"Annexed herewith is a list showing number of arrests made by members of my command from May 21, 1898, to date, for violating Liquor Law, keeping gambling houses and slot machines, keeping disorderly houses and cafés, indecent theatrical performances and highway robbery.

"Respectfully,

"JOHN M. O'KEEFE,

"Captain, Twelfth Precinct."

Endorsement on back as follows:

"Twelfth precinct, October 26, 1898. John M. O'Keefe, captain. Report relative to gambling and other violations of law within this precinct."

Total number of arrests for violation Liquor Tax Law	
from May 21, 1898, to date.....	36
Number held for trial and pending.....	9
Number discharged .....	26
Number sentence suspended .....	1

Total number of arrests for keeping gambling houses,	
from May 21, 1898, to date.....	6
Number held for trial and pending.....	1
Number discharged .....	5

Total number of arrests for keeping slot machines on	
premises, from May 21, 1898, to date.....	3
Number discharged .....	3

Total number of arrests for keeping disorderly houses,	
from May 21, 1898, to date.....	11
Number held for trial and pending.....	7
Number convicted .....	3
Number discharged .....	1

Total number of arrests for keeping disorderly cafés, from	
May 21, 1898, to date.....	10
Number held for trial and pending.....	3
Number discharged .....	6
Number convicted .....	1



Total number of arrests for indecent theatrical performances, from May 21, 1898, to date.....	5
Number held for trial and pending.....	3
Number discharged .....	2

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Total number of arrests for highway robbery from May, 21, 1898, to date.....	1
Number held for trial and pending.....	1

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Endorsed on back as follows:

“Twelfth precinct,  
“October 26, 1898.

“Report in compliance with resolution passed by the board of police relative to the falsity or truth of statement of the public press.”

“POLICE DEPARTMENT OF THE CITY OF NEW YORK.

“Precinct No. 15.

“NEW YORK, *October 26, 1898.*

“WILLIAM S. DEVERY, *Chief of Police:*

“Sir—In compliance with orders received relative to resolution by the board of police, on gambling and other violations of the law, I herewith submit the following report:

“There is, in the first place, as far as they relate to this precinct, no truth in the statements made in the public press of the city charging that gambling and other violations of the law exist in the city of New York.

“Since May 21, 1898 to date I have had five men, beside my two precinct detectives, detailed in citizen’s dress, for the purpose of detecting and preventing gambling and all other violations of the law, in this precinct and in this work they have been very successful.

“While attempts have been made to start gambling houses, pool rooms and other unlawful businesses in this precinct they have, from the fact of the constant vigilance of these officers and the strict surveillance under which all suspicious places have been kept, proved in all cases abortive.

“The following is a statement showing the violations of law as are charged by the public press, together with the arrests that have been made for such violations during the time specified and the disposition thereof:

Violations charged.	Arrests.	Discharged.	Held.
Violation of Liquor Tax Law.....	47	20	27
Gambling .....	0	0	0
Pool room .....	0	0	0
Prize fighting .....	0	0	0
Dives .....	0	0	0
Theatrical performances, indecent....	0	0	0
Green goods .....	0	0	0
Disorderly houses .....	3	2	1
Slot machines .....	3	1	2
Cafés, disorderly .....	2	1	1
Policy .....	1	1	0
Highway robbery .....	6	2	4
Blackmail .....	0	0	0
Evil resorts .....	0	0	0
Craps, poker and faro .....	1	0	1
Disorderly flats .....	0	0	0
Music halls, disorderly .....	0	0	0
Stale beer joints.....	0	0	0
Knockout joints .....	0	0	0
Badger games .....	0	0	0
Penal games .....	0	0	0

“ There is no demoralization of the police force under my command in this precinct.

“ There are no professional bondsmen plying their business in this precinct.

“ The following is a list of the members of my command who have been engaged specially in the prevention and detection of such violations as charged:

“ Patrolman Michael Larkin.

“ Patrolman Maurice Bonnoil.

“ Patrolman George W. Jackson.

“ Patrolman Adam Raedig.

“ Patrolman William Keil.

“ The general condition of this precinct with respect to gambling and all other violations of the law, alleged, is good; all the laws relative to same being uniformly enforced and well observed, except in cases where arrests have been made.

“ Respectfully,

“ JOHN DELANEY,

“ Captain Fifteenth Precinct.

Endorsed on back as follows:

“ Precinct No. 15.

“ Date October 26, 1888.

“ Captain Delaney.

“ Report in compliance with orders from chief, on allegations made in city press vio. allowed to exist.”

“ POLICE DEPARTMENT OF THE CITY OF NEW YORK.

“ Precinct No. 19.

“ NEW YORK, *October 25, 1898.*

“ WILLIAM S. DEVERY, *Chief of Police:*

“ Sir—Pursuant to your orders, dated October 21, 1898, relative to the existence of gambling and other violations of law, I have the honor to report as follows:

“ Each week under rule No. 302, a transcript of all suspected or alleged places is forwarded to you, all such places are being kept under strict police surveillance, and when any evidence such as would warrant summary arrest is obtained, arrests are promptly made.

“ The records of this precinct, from May 21st, to July 26th, 1898 (66 days) previous to my being assigned to the command of the Nineteenth precinct, show the following arrests to have been made;

“ Violations of Liquor Tax Law; 8 arrests, 5 of which were discharged, 3 as yet pending trial on bail.

“ Disorderly houses; 1 proprietor arrested and fined \$35.

“ Keeping gambling house; 1 proprietor and 19 inmates arrested all of whom were discharged.

“ Keeping poolroom; 1 proprietor arrested and discharged.

“ Women soliciting men, on the street for the purpose of prostitution; arrests 285, discharged 23, convicted 262. Fines imposed amounting to \$1,883.

“ From July 26th to October 25th, 1898 (91) days under my command, the following arrests have been made:

“ Violation of Liquor Tax Law; 7 arrests, 4 of which were discharged and 3 are pending trial on bail.

“ Keeping disorderly houses; 7 proprietors arrested, 3 of which were discharged, 1 convicted and 3 pending trial on bail; 61 inmates, 38 of which were discharged and 26 fined.

“ Keeping gambling houses; 5 proprietors arrested, 1 discharged and 4 are pending trial on bail; 63 inmates were arrested, 45 of which were discharged and 18 fined.

“ Keeping pool room; 2 proprietors arrested and both discharged.

"Women arrested for soliciting men on the streets for the purpose of prostitution; arrests 901, discharged 119, convicted 782, fines imposed \$4,625.

"The detectives attached to this precinct together with officers specially detailed to visit all suspected places at uncertain hours of the day and night, in citizen's dress are being constantly sent by me to these places, with orders to make summary arrests if the evidence warrants so doing.

"The condition of this precinct is good, the officers of this command being constantly instructed and assisted by me in keeping alleged disorderly places and persons under restraint, with a view to eventually repressing such violations of law.

"Complaints from citizens are promptly investigated, and where evidence is received of the existence of crime, prompt action is taken to abate the same.

"No increase of crime has taken place in this precinct, and the utmost vigilance is being exercised to prevent any increase, and to abate any that may be found existing.

"From reports made to me by my officers, also from inquiries made through citizens, and from personal inquiry and observation, I unhesitatingly state that the published statements of 'open crime in this precinct' are false.

"Respectfully,

"JAMES K. PRICE,

"Captain, Nineteenth Precinct."

Endorsed on back as follows:

"Nineteenth Precinct.

"Relative to published statements of crime existing in this precinct.

"October 25th, 1898."

Q. Your attention and the attention of your precinct commanders were called specifically at this date, October, 1898, to the very matters that I have been questioning you about, were they not? A. Not specifically, but as a whole; a general accusation.

Q. As a whole? A. A general accusation.

Q. But your attention was required by the order of the board, as a whole, as you say, to those very matters that I have been asking you about? A. Let me look at that paper again. (The



first or pink paper was then handed to the witness, who read it.) Those are reports touching on that; yes, sir.

Q. How is it, then, if you were so ordered and if you obeyed those orders, that you are so densely ignorant, to-day, about the whole subject of the enforcement of the law and the violation of the law, as you have shown yourself to be in your answers to the questions? A. Because there have been no complaints. Those matters have been continually attended to, and there is so much matter coming in and out from the five boroughs daily, eighty different precincts and sub-stations, that it takes a man, it takes you all the time to remember what confronts you in a day, let alone going back any length of time, without referring to the records.

Q. Is not Edward Glennon in some way related to you, or to some relative or friend of yours? A. None whatsoever.

Q. No relation at all? A. No, sir.

Q. I want to ask you this: Since you were appointed as chief of police how many transfers have you made? A. I couldn't tell you that exactly. The records will show.

Q. I know the records will show, but about how many? I hardly thought you would know how many you have made? A. I have made a great many.

Q. How many, about? A. I couldn't tell you that.

Q. A hundred? A. Oh, yes; I have made a thousand.

Q. A thousand transfers in how many months? A. Ten months. Perhaps more, perhaps less. The records will show.

Q. You will stand for about a thousand, on your impressions? A. I prefer going by the record in those matters. You know a man can't remember everything.

Q. I do not expect you to know exactly, and we will call for the records; but I want to get it as near as you can. A. I can't remember all matters of record.

Q. Have you yourself determined each one of those transfers? A. They went through my hands.

Q. Every one of them went through your hands? A. Yes, sir; except that I might be on vacation or through sickness.

Q. Were the transfers made while you were away? A. Not that I know of. I hardly think so. There may have been one for the good of the service in some way.

Q. But you hardly think that any transfers were made while you were away? A. There may have been; we will concede that.

Q. You say everyone of those transfers went through your hands? A. Yes, sir.

Q. Did you know and see every man that was transferred? A. No; I did not.

Q. Did you transfer each man for a special reason that you yourself knew, and that was satisfactory to you, personally? A. What is that question?

Q. Did you transfer each man for a reason that you yourself knew and that was satisfactory to you, personally? A. I think I did; yes, sir.

Q. You did, then? A. Yes, sir; I did.

Q. Then for each one of those transfers there was a special reason? A. There certainly must have been, in some way.

Q. What were those reasons, generally? A. Well, as a rule, for the good of the service.

Q. I know; "for the good of the service" is a good old term; but we do not understand it here. It has covered up a great many things in all administrations. A. To make it short to you, and then you can get away to your details, I will tell you some of them I have made.

Q. No; I do not want to get into details. You are running me into details. What were generally the reasons? A. For the good of the service.

Q. No; what sort of a reason controls you, generally, in taking a policeman away from the precinct where he has been and sending him to another? A. A matter of discipline; and in the interchange making the quotas of the precincts on the same standard as they should be to fill their various night posts within that precinct; what we call up to the total force of the precinct, to keep them up to a certain standard. We set a certain quota to a precinct, and it may be a hundred. If there was a man sent from

this precinct to another precinct, we would bring a man from another precinct to that precinct to keep the quota even.

Q. Did you consider the comfort and welfare of the men, and the claims upon them of their families, as a rule? A. Yes, sir; in most cases.

Q. Sometimes you did not consider it? A. Well, you might overlook matters and make mistakes.

Q. Why, for instance, did you take a man from Long Island City and transfer him to Staten Island, and then from Staten Island to Wakefield? Why would you do that? What would be a good police reason? What would there be for the good of the service in making a transfer of that kind? A. Well, there might be a man who would be apt to drink or could not properly control his post, and the captain might ask to straighten him out quick, and perhaps he had got out of a complaint or been fined or something of that kind, that you know, and they might ask to have him sent away to try to straighten him up in some way; and in a mistake of transferring—this has been the first year of this five-borough system, and there have been many mistakes in transfers of that kind, but I don't think a transfer of that kind would occur for a man to be transferred from Long Island to Staten Island, and from Staten Island to Wakefield.

Q. You would not do that for a man who was a politician? A. No; I certainly would not.

Q. Would you do that for a man who was not in the department? A. Except it was for the good of the service or a matter of discipline.

Q. Did you do that for any man who was not in the department? A. I think not, except for the good of the service.

Q. You do allow people who are outside of the department to make suggestions about the transfer of officers, do you not? A. Nobody makes suggestions to me touching on the welfare of this department.

LEO FREEDMAN, being duly sworn, testified as follows:

Examined by Mr. Moss:

A. I live at 811 East Fiftieth street. I am retired from business.

Q. I want you to understand that in any statement you make here you are perfectly protected. No action will be taken against you on account of any revelation that you make here on the witness stand, and you are expected to tell the truth. What was the business from which you retired? A. I was in the lottery policy business, in the capacity of a sub-backer. The principal backer was Shipsey and Murray, Jacob Shipsey. Shipsey's office was at 52½ Bowery. It is there yet.

Q. And he is still doing business there? A. I suppose so. I don't know. I am not in business. I am four years not in business.

Q. But from your knowledge of policy matters in general his business is going on? A. Yes, sir.

Q. Is Murray at the same place? A. Murray is 300 Bowery, but I suppose they have removed away now.

Q. Removed to the rear? A. I don't know where he has moved.

Q. He was at 300 Bowery? A. Yes, sir.

Q. And that business is going on, so far as you know? A. So far as I know, yes, sir.

Q. Do these backers have stores and offices around about here? A. I don't know now.

Q. In your time? A. In my time, yes, sir.

Q. How many stores did you have charge of as a sub-backer? A. I had, I think, about forty.

Q. How many other backers, sub-backers, did Shipsey have? A. I don't know.

Q. Several? A. Several, yes, sir.

Q. Were you indicted? A. Yes, sir.

Q. On two indictments, which I show you? A. Yes, sir.

Q. One of those indictments is still pending, is it? A. Yes, sir.



Q. And the other indictment you were dismissed on the other day, were you? A. Yes, sir.

Mr. Moss—I offer in evidence indictment of the People against Morris Freedman and Leo Freedman, signed by John R. Fellows, district attorney, filed December 2, 1896. Pleads not guilty.

The indictment is marked “Exhibit J.”

Q. Why has this impending indictment never been tried?

A. I don't know. But I will tell you, those old indictments were a regular blackmailing business. I wasn't brought before the magistrate. It was merely a blackmailing business. I don't know—it didn't come up yet. That is all.

Q. If those old indictments were plainly blackmailing business, why did you not move to have them tried and disposed of? A. My lawyer didn't do it yet.

Q. Who was your lawyer? A. Goldsmith.

Q. Goldsmith is the son-in-law of Martin Engel, is he not? A. I don't know. Goldsmith I know since many years, when he was in Essex street. I don't know what he——

Q. Did you say you were never charged before a magistrate? A. No.

Q. Then this indictment was found before the grand jury without any hearing? A. Yes, sir, without any hearing; and I ain't guilty at all to it.

Q. I see on the back of this indictment the names of two witnesses, Jacob Kaiser and Hettie Kaiser. Those were the witnesses against you, were they? A. Yes, sir.

Mr. Moss—That indictment remains pending. I offer in evidence another indictment of the People against Morris Freedman and Leo Freedman, filed January 28, 1896; and on the back of this indictment is this indorsement: “This indictment was found upon the testimony of A. F. Bennett, and other persons whose attendance cannot now be secured, and whose testimony, even if they should appear, would in all probability be insufficient to warrant a conviction. Bennett by

reason of his unfortunate mental condition and the other witnesses by reason of their general irresponsibility and lack of reliability. Therefore recommend that defendants be discharged on their own recognizance." This appears to be signed by Robert Townsend.

The Chairman—He was assistant district attorney.

Mr. O'Sullivan—That is his signature and he is now assistant district attorney.

The indictment is marked "Exhibit K."

Q. Who proposed first an application for the dismissal for that indictment? A. The lawyer, at my request.

Q. What did he say to you about it? A. I asked him to have it done to the case—to have it come to a trial.

Q. You paid somebody some money in connection with the dismissal of that indictment, did you not? A. I paid the lawyer. I paid the lawyer a fee. I didn't pay him yet, because the money lays——

Q. You did not pay him yet? A. No.

Q. Then your lawyer has not been paid yet? A. He has been paid for the first case; not for the second.

Q. What was your lawyer paid for the first case? A. I paid him \$700.

Q. But for this case he has not been paid? A. No, only I deposited \$300.

Q. For what? A. For his fee.

Q. For the lawyer's fee? A. Yes, sir.

Q. For making a motion for dismissing the indictment? A. That is the way he charged me, yes.

Q. Did you not pay him? A. I paid him for the first case.

Q. But you have not paid him yet? A. The first money I paid him.

Q. For this? A. I will pay him only when that case will be over.

Mr. Moss.—Here is a check drawn by somebody evidently by the name of Gotts; perhaps you can tell who it is; to the order of Leo Freedman, for \$300.

The Witness.—That is the money.

Q. Did you borrow that money? A. I did borrow it. It is Gombossy.

Q. What is this? A. That is the amount. I borrowed the \$300.

Q. That is, you endorsed it, did you? A. Yes, sir; I endorsed the notes.

Q. Did you endorse the check? A. No, not the check. I don't think so. I think the notes I did.

Q. You did endorse the check? A. Yes, I gave him two notes.

Q. Whom did the check go to? A. The check, I think, is Hochstim. The \$300 he holds yet.

Q. There is Hochstim's signature on the bank of the check, is it? A. Yes, sir.

Q. Who is Max Hochstim? A. I don't know him much more. I know he is the owner of that hall, Blank's hall.

Q. He is the owner of Blank's hall; and is that all you know about him? A. Yes, sir.

Q. That is the concert hall on Third avenue near Fourteenth street? A. Yes, sir.

Q. A sort of disorderly concert hall, is it not? A. I don't know, I have never been in it. I only know that Hochstim is a friend of Goldsmith's, the lawyer.

Q. Hochstim is a political power in that district, is he not? A. I don't know even that. I don't belong there to that district.

Q. And Hochstim runs that station house, does he not? A. I don't know.

Q. He controls the bail bond there does he not? A. I don't know.

Q. And he goes out on the street and says to this butcher or to this man, "Buy your meat from that butcher; buy your groceries from that grocer, and buy your milk from that milkman." He runs

the district, does he not? A. I have never lived in that district. I live up town. I live in Fiftieth street. I have never seen Hochstim actually, only two weeks before; three weeks before. I know he is a politician.

Q. He is a politician? A. I don't know. He might be.

Q. Here is the check endorsed "Max Hochstim, No. 78, received payment through the New York Clearing House, March 7, 1899." So that check has been paid? A. It has been paid. The check is good. I owe yet the \$300.

Q. But that check has been paid. How can it be good if it is paid? A. I say the check—if it is paid, then it is good.

Mr. Moss.—No, the check is not good. The money is good.

The Witness—The money, yes, sir.

Q. Max Hochstim has got the money? A. You bet your life he has.

Q. That is, if he has not given a part of it to some one else? A. That money is for the lawyer.

Q. What did the lawyer do? A. Nothing yet.

Q. But you have been discharged? A. No, that was on that other case.

Q. You said you paid \$700 for the other case, did you not? A. \$300. On the next his charge is only \$300.

Q. How do you account for the fact that you have got to put your lawyer's fee into the hands of a third party? A. I didn't want to pay him because—except he waited for all; and in this case he demanded more money and I didn't want to trust him, and put it in the hands of him; so I say, "Here is \$300; when you finish the case you can have it."

Mr. Fallows—He gives \$300 to a man he has not known for two weeks.

Q. How long have you known Goldsmith? A. I have known Goldsmith before he was a lawyer yet.



Q. Who told you to put this money into Hochstim's hands?—  
A man that you did not know? A. He told me himself.

Q. Hockstim told you? A. No, Goldsmith.

Q. You told me about two notes. To whom did you give the notes? A. To Mr. Gombossy. I gave two notes for the \$300.

IGNATZ GOMBOSSY, being duly sworn testified as follows:

Examined by Mr. Moss:

I keep a restaurant at 112 Third avenue. That is in the Fourteenth precinct. I know Mr. Freedman. I drew this check that has been offered in evidence. When I drew this check I had the money to meet it with. I received some notes, two notes, for Mr. Freedman, one for one month, and the other for two months. I loaned him the money; I loaned him this \$300, Mr. Freedman. He needed the money. It was Sunday evening and he came up to me. He was short of cash money, if I can lend him \$300. I don't know what he wanted to do with it, I never asked him. He only asked me for a loan. I gave those notes for discount and collection to F. G. Selig, a milkman; I am connected with him about ten years in business transactions. Mr. Selig does not hold my notes for this money. I have some more business transactions. If I need some money I always send to him and I can lend it from him. I gave them to him for discount. They were not discounted; he put them only for collection in the bank. They have not been collected. I owe the money on those notes yet.

Q. What was the object of mixing this transaction up in two notes and a check? Why did you do that?

The Chairman—One of those notes has matured. He says one was payable in 30 days.

Mr. Moss—It is dated the 6th of the month.

The Witness—Yes, sir. It was due the 6th day of this month.

Q. Where are those notes now? A. Mr. Selig has got them.

Q. What about the note that has become due? Has that been paid? A. No, Mr. Freedman came up to me two days before and said that he was short of money—to give new notes for them.

Q. He wanted to renew them? A. Renew them; and I renewed them. Then I sent word to Mr. Selig that he shall take the notes back from the bank because Mr. Freedman was short this month, and he can't pay them. That was the whole transaction.

Q. You have seen Mr. Selig here to-day, have you? A. Yes.

Q. He has gone away? A. Yes, sir. He was here until an hour ago.

Q. Do you know whether he had the notes then? A. Yes, sir, he did.

Q. And he has taken the notes away with him? A. I didn't see the notes but he got it for sure I know.

Q. He did not give it to you, did he? A. No, sir.

Mr. Moss—Not to you, Mr. Freedman?

Mr. Freedman—No. If I had the notes I would owe nothing.

LEO FREEDMAN, being recalled, testified as follows:

By Mr. Moss:

Q. So far as you know the only man that has any of this money is Max Hochstim? A. So far<sup>a</sup> as I know and so far as I hear now.

Q. So far as you hear now? Then you do not know that he has the money, do you? A. I know he has, but I don't know how that come public. I know that he has the money.

Q. Why should it not come public? A. Because it is a private transaction. This man loaned me the money and gives me the money, and I owe that money yet. There is nothing wrong in that.

Mr. Moss—I have finished with this witness.

IGNATZ GOMBOSSY, recalled and further examined:

By Mr. O'Sullivan:

Q. Have you paid any money to anybody in this transaction?

A. No, sir.

Q. And this man came to you because he had no money himself and borrowed money from you? A. Sure.

Q. Is not that so? A. Yes, sir.

LEO FREEDMAN, recalled and further examined:

By Mr. O'Sullivan:

Q. You said that you were a policy backer, did you not? A. Yes, sir.

Q. What did you back it with? Money? A. Of course with money.

Q. And the business was so profitable that you retired from it? A. No, sir. I came with more money in the business than I went out. I am poor now.

Q. What did you mean when you said "I have retired from the lottery and policy business"? A. I am retired because I gave up. I didn't want to stay no more in the business.

Q. Is it not a fact that you regard yourself as having been driven out of business? A. Well, actually, yes, sir.

Q. Is it easy to locate a man who runs a policy shop or who takes care, like yourself, for a number of months or years, whatever time you have been in it—is it easy to locate them? Is it easy for the police to locate them? A. Since the last four years I have no knowledge at all of whether it is easy or not easy. In my times, when I was in business, it was hard.

Q. You said that you regarded these indictments as blackmail indictments? A. It is so.

Q. One of the chief witnesses in one of these indictments was a man named Dennett? A. They went to Dennett and had me indicted without hearing me. If Dennett would have heard me, actually he could do nothing because I didn't wrong nobody in the world.

Q. I understand that. I do not wish to show that you did, by any means, but in consequence of Dennett's testimony you were indicted? A. Yes, sir.

Q. And Dennett, who inspired what you call a blackmail indictment, you knew was the agent of Mr. Moss's society, did you not? A. Well, yes. But I never seen Dennett, you know, after he seen me. After he seen me and I explained to him, he says: "I am very sorry that I didn't hear you before."

Q. How much did you give Dennett in order to have him make that explanation? A. I never gave him a cent; no.

Q. Did that explanation that you made to him satisfy him that he swore falsely before the grand jury? A. Oh, that was about two months after; he called me, and I seen him and I explained to him the true effect, how that was, and he says "I am very sorry that I didn't see you before. These people have no right at all to blackmail you the way this was done."

Q. And through his agency? He went in there and swore, did he not? A. Yes, sir.

Q. Have you paid any money to any official in any respects dealing with that indictment? A. No, sir.

Q. You paid your lawyer a fee, that you say was \$700 in one case? A. Yes, sir.

Q. You do not know what he did with it? A. No. That is what he charged me in a private house. He charged me first a thousand dollars. I said to him "I am very poor; I can't." So finally we made a bargain on \$700.

Q. Did you explain that bargain to Dennett when you got the second indictment—did you explain the bargain to Dennett? A. Oh, no. Dennett was dead. I don't know where he is. That is about three or four years after Dennett left.

By Mr. Moss:

Q. You paid that man a thousand dollars and the case has never been tried? A. Seven hundred dollars I paid him.

Q. Seven hundred dollars and \$300 make a thousand dollars, on your own statement; and the case has never been tried? A. One was tried.



Mr. Moss—No; dismissed.

The Witness—Well, he appeared for me—yes; it was dismissed.

Q. But the only thing that he has done for you is what you see there, signed by Mr. Townsend, that the case is not strong enough to try? A. That is all.

By Mr. O'Sullivan:

Q. Because the very man charging you is crazy, is not that the reason? A. I don't know.

By the Chairman:

Q. Notwithstanding the fact that you claim that this was black-mail, you paid him in one case \$700 and in the other \$300, is that right? A. Yes, sir; to the lawyer I paid.

Mr. Moss—I think in justice to Dennett, who is not here to speak for himself, it ought to be brought out clearly that the witness stated that the case was made by these witnesses Kaiser, who went with their statement to Dennett, who then took them to the police court or to the grand jury, where the indictment was found. That is the statement on the testimony.

Mr. O'Sullivan—But the indictment itself shows on its face that Dennett was the chief witness. You read that yourself?

The Witness—Yes, sir.

Mr. Moss—Where? The names of the witnesses are endorsed on the indictments, and are always done so, and his name does not appear.

Mr. O'Sullivan—But Mr. Dennett told you that if you had only met him before the indictment it never would have been got?

The Witness—Yes, sir.

Mr. O'Sullivan—Even though you admitted here that at the time you were running a policy shop?

The Witness—Yes, sir.

The committee then adjourned to Friday, April 14, 1899, at 10 o'clock a. m.

BOARD OF TRADE ROOMS, No. 203 BROADWAY,

NEW YORK, Friday, April 14, 1899,

10 o'clock a. m.

The commission met pursuant to adjournment, all of the members being present.

RICHARD CROKER, being duly sworn, testified as follows:

Examined by Mr. Moss:

Q. You live at the Democratic Club, do you? A. Yes, sir.

Q. And have been a resident of the city of New York for many years? A. Yes, sir. I say Democratic Club; I live temporarily there.

Q. You are the leader of the political organization generally known as Tammany Hall, are you not? A. I don't know about that.

Q. Generally conceded to be, are you not? A. Well, I am not talking for myself now. If others think I am, I am willing they should.

Q. You say you are not talking for yourself? A. No.

Q. But if others say you are, you are? A. Yes, sir.

Q. We both recognize the fact that the government of our city as well as of our country depends upon the existence of political parties. We both believe that, do we not? A. I think so.

Q. And it is a perfectly proper thing, we will both agree, that the political affairs of the country, of the State and of the city should be matters of interest for political parties. We agree on that, do we not? A. Yes, sir.

Q. And that political parties must be led. We agree on that, do we not? A. Yes, sir.

Q. And that it is a perfectly honorable thing for a man to be the leader of a political party. We do not disagree on that, do we? A. No, I don't think so.

Q. And of course a leader of a political party, to be a leader, must know what is going on, must know the men that compose

the party, and generally understand the public affairs of the city or State, as the case may be. We will agree on that, will we not? A. Oh, yes.

Q. And I think, too, that we will agree that the leadership which is generally accorded to you is made largely upon the fact that you have the reputation of being a truthful man? A. I try to be.

Q. Will we agree on that? A. I try to be, yes, sir.

Q. I notice in the account published in the Journal this morning of last night's dinner some remarks made by Mr. Schraub, who responded to the toast "The Democracy of the State," in which these words are quoted. "They cry out against Richard Croker and denounce him as the uncrowned king. I know of no single act of his life that merits their abuse except that he has been the most successful leader the democracy of this city has ever had, and that in every spot and place his word has been his bond and his integrity above question."

Q. Did he make those remarks in your hearing? A. Yes.

Q. And you and I, or at least you will agree with the sentiments of that expression, will you? A. Yes, sir; I do.

Q. And by the Democracy of this city Mr. Schraub meant, and you understood him to mean, the organization generally called Tammany Hall, did you not? A. I suppose that is what he meant.

Q. You presided at one of the tables last night, did you not? A. No, sir; not presided; no. I was a guest there.

Q. You were a guest at one of the tables? A. Yes.

Q. Table B? A. Yes.

Q. The newspapers stated that you presided; but you do not admit that? A. I did not preside.

Q. The newspapers state that you had surrounding you certain well known gentlemen, including these men: United States Senator Edward Murphy, John F. Carroll. Those gentlemen were on either side of you, were they not? A. Yes, sir.

Q. Is that Mr. Carroll the same gentleman who was the clerk of the Court of General Sessions? A. The same man; yes, sir.

Q. He is now your assistant in the matters of the city Democracy, is he not? A. Yes, sir.

Q. Generally called your deputy; is that the proper word to apply to him? A. Whatever you may call him. I don't know whether he is a deputy or assistant. Whatever you might term it. You can call it whatever you want.

Q. You do not object to my calling him deputy? A. You can call him whatever you like.

Q. You do not object to that? A. No.

Q. That is a perfectly honorable title, and I apply it to him in that way. The deputy of the leader of the party, is what I mean. Then there was the sheriff of the county, Thomas J. Dunn, Police Commissioner John B. Sexton, Coroner Edward Fitzpatrick, John F. Oakley, Congressman William Sulzer, Park Commissioner August Moebes, Bridge Commissioner James W. Boyle, James J. Coogan, the president of the borough; Randolph Guggenheimer, president of the council; Nathan Strauss, Thomas F. Smith, the county clerk; William Sohmer, the registrar; Isaac Fromme, Michael T. Daly, Patrick Divver, Peter J. Dooling, James J. Martin, Martin Engel, Maurice F. Holahan, president of the board of public improvements; James McCartney, the street commissioner; Commissioner John J. Ryan, Fire Commissioner John J. Scannell, Corporation Counsel John Whalen, Thomas F. Ryan, Charles Welde, Dock Commissioner Charles F. Murphy, Colonel Michael C. Murphy, president of the health board; Daniel McMahon, of the firm of Naughton & Co.; James T. Keating, Charles H. Knox, Peter F. Meyer and others. Do you recollect that you were surrounded by those gentlemen? A. Oh, yes.

Q. All of those gentlemen are prominent in the councils of the party, are they not? A. Yes, sir.

Q. And they are also prominent office holders under the present administration? A. That is right.

Q. There is a directing council in your organization called the Sachems, is there not? A. Yes, sir.



Q. Those are the men who direct the affairs of Tammany Hall, are they not? A. No, not altogether.

Q. But they have a large controlling interest, do they not? A. They are the custodians of the building.

Q. That is the headquarters of the organization? A. No, they own the building. The Sachems are trustees like.

Q. They are like the trustees of a church? A. Yes, sir.

Q. Charged with the temporalities of the church? A. Yes.

Q. So these Sachems are, are they? A. Yes, sir.

Q. And being practically the trustees they are the body controlling the general interests of the association, are they not? A. Of the Tammany Society.

Q. You frequently meet with those gentlemen in consultation about the affairs of Tammany Society, do you not? A. I am not a member of Tammany Society.

Q. But you are simply the leader of the Tammany Democracy, are you? A. Yes, sir, you say so and it must be so.

Q. You admit it? A. Yes. I don't deny that.

Q. There is a difference between the Tammany Society—— A. It is not necessary to bring all that up, I should not imagine, because everybody knows they are. There is no use playing to the galleries.

Mr. Moss—We are making the record.

The Witness—Give good straight talk and let us get through. There is no use making speeches. They all know everything you have said here. I am the leader of the party and I acknowledge it, and all these people are my friends and I am going to stick to them all the time. I don't shy away from them. (Applause from the audience.)

Mr. Moss—That is right. I hope the chairman will allow that once in a while.

The Witness—No, we don't want it. Just give me good straight talk and let us settle it. That is all unnecessary. All those gentlemen know that I am considered the leader, and all those gentlemen are my friends, and yet you have taken a half hour up for nothing. Now, what is the use?

Mr. Moss—We will try to accommodate you. I do not want to make this examination any more lengthy or uncomfortable——

The Witness—You must pardon me now for saying that. I am only saying that for both of us. You have got quite a little time, and I have got a little time and we want to make good use of it.

Q. You say these gentlemen whom I have mentioned are your friends, do you? A. Yes, sir.

Q. You are their leader and have discussed together the political matters of the city, have you not? A. Yes, sir.

Q. You give certain directions and advice? A. Yes, sir.

Q. And they follow it? A. Some do.

Q. And when they do not? A. Some do and some don't.

Q. That is the only way a political party can be made practically successful, is it not? A. That is the way.

Q. It does not do to have divided councils at the head, does it? A. No, not very well.

Q. For that reason, when the party is dominant the men who are put in to the city offices to administer the affairs of the city ought to be in such relation with the head that they will do what is generally considered by the organization to be the proper thing? A. We agree on that. We believe it is right, yes.

Q. The leader of that organization is always looked to for his advice, his judgment and his direction, is he not? A. Not always. Often things are done that the leader don't know anything about.

Q. But there are so many things that you cannot be expected to know and understand them all. I agree on that. A. There are lots of things done that I am not accountable for at all.

Q. I want to read the names of the Sachems. We are not only talking but we have got to make a record that is to go to the Legislature, and I want it straight. It is stated that the Tammany Sachems now are Thomas L. Feitner, President of the Board of Tax Commissioners, Grand Sachem; John Whalen, Corporation Counsel; John F. Carroll, the assistant or deputy of yourself; William Astor Chanler, Congressman elect; John J. Scannell, Fire Commissioner; Charles F. Murphy, President of the Board of Health; Randolph Guggenheimer, President of the Council; Mau-

rice Featherson, State Senator; Major Asa Bird Gardiner, District Attorney; John Kelly; George C. Clausen, President of the Park Commission; John Fox; Thomas J. Dunn, Sheriff; Secretary, Thomas F. Smith, Clerk of the City Court; Sagamore, J. T. Nagle; Wiskinskie, John A. Boyle. Is that list substantially correct? A. Yes, sir.

Q. And all or nearly all of those men hold prominent positions now in the city government? A. Yes, sir.

Q. Is it not a fact that upon the success of the Tammany ticket in the election of the fall of 1897 there was a gathering at Lakewood of the important members of the Tammany organization, including yourself, at which was discussed the offices that were to be filled and the candidates for these offices? Is not that so? A. Oh, yes.

Q. And at that conference at Lakewood practically all of the important offices of the city and county government were selected, were they not? A. Well, pretty much.

Q. And your advice was asked upon them all, was it not? A. Mostly all, yes, sir.

Q. Do you recall any member or any important officer of the city government now who was not discussed with you and your advice asked about him? A. No, I do not.

Q. These men were all agreeable to you, were they not. A. Yes, sir.

Q. And most of them were your personal selection, were they not? A. Well, no, they were not; not my personal selection at all.

Q. But the selection of yourself or of your immediate associates? A. Yes, sir.

Q. And they were selected partly because of their presumed ability to fill the offices and partly because of the loyalty they had to the organization which had triumphed? A. Yes, sir.

Q. And in filling those offices you looked directly to the practical questions of sustaining the strength of the successful organization, did you not? A. Yes, sir.

Q. Most of these gentlemen meet you frequently, some of them nightly, at the Democratic club, do they not? A. Yes.

Q. And you there consult over the affairs of the city, do you not? A. Not always, no.

Q. You do consult over the affairs of the city, do you not? A. Once in a while. Very seldom.

Q. And the matters that come up in their departments are discussed, are they not? A. No, not by me at all.

Q. Never? A. No.

Q. The appointment of the subordinates is discussed at the Democratic club, is it not? A. No.

Q. But it is a fact, is it not, that practically all the heads of departments in the city meet at the Democratic club every evening? A. Yes, sir.

Q. And such affairs as are interesting to them politically or in the conduct of their offices are discussed, are they not? A. I don't know. I am not supposed to know what they all talk about when they get there. They sit down and talk about everything in general.

Q. You hear the conversation? A. No, I don't talk to them all, you know. Once in a while I might talk to somebody—that has not got any office at all; or it might be some visitor.

Q. And sometimes people that want offices? A. It is very seldom I talk about their affairs and their offices when they come there.

Q. Sometimes people who want offices come there to see you, do they not? A. No, I have nothing to do with that at all.

Q. Do they not come there to see you? A. There is very seldom anyone comes there other than a member.

Q. I notice that at the present time there is a great deal of interest in the question of the city building, and owning a gas plant. You have taken an interest in that, have you not? A. Yes, sir.

Q. And that is a subject that has been discussed at the Democratic headquarters, has it not? A. Well, I don't know. Not particularly up there. Yes, sir; probably it has at times.



Q. And in order to accomplish the purpose of getting a city gas plant it will be necessary to have legislation, would it not?

A. It would if you serve the public outside of the city building, in my opinion, that is all. I am not quite sure about that. I believe we can serve ourselves here with the plant, without going to the Legislature. I ain't sure about that, but I am under that impression.

Q. You are engaged now in taking action and consulting with friends so that an approach may be made to the Legislature to secure some bill to help that matter along, are you not? A. Yes, sir.

Q. I find that the associates that you have about you in this gas matter are many of them also members of the city government? A. Yes, sir.

Q. And persons that you meet and see at the Democratic club? A. Yes, sir.

Q. Then that is a matter discussed in that club, is it not? A. Yes, sir, sometimes; just as at this time.

Q. I want to call your attention to an interview that is attributed to you, published in the Times. It is within a day or two. "Mr. Croker repeated yesterday his declaration that he would not go before the committee without a subpoena. In reference to the investigation itself he said that the Republican members of this committee had been disappointed in the measures they have been interested in at Albany, and they are now taking their revenge. The two most prominent were the Amsterdam avenue grab and the Astoria gas bill, and the chairman of the investigating committee was especially interested in the latter. It is all a question of spite."

Q. Did you make that statement, or substantially that? A. Yes, sir.

Q. That is substantially your feeling now, is it? A. Yes, sir.

Q. Then you were interested in the matter of the Amsterdam avenue grab and also in the matter of the Astoria gas bill? A. Yes, sir.

Q. What interest had you in those two matters? A. To try to give to the people up there what they wanted on the Astoria, and to beat the grab bill of your chairman here.

Q. Prominent citizens of New York went to you and asked you to interest yourself in the matter of the Amsterdam avenue bill, did they not? A. Yes, sir.

Q. Particularly the Rev. John P. Peters? A. Yes, sir.

Q. Up to that time did you know that prominent members of your party in the Senate had been opposed to the position of Mr. Peters, particularly Senator Grady? A. No, sir; I didn't know that.

Q. You had not noticed that? A. No, sir; I didn't know that, that he was.

Q. Do you not know now that Senator Grady opposed strongly and vehemently upon the floor of the Senate, the action that John P. Peters wanted? A. I don't know that.

Q. You promised Mr. Peters that you would do something? A. I done all I could.

Q. What was it you did? A. I asked those people in Albany to do what they could to sustain those citizens with Mr. Peters at their head.

Q. Whom did you ask? A. I asked Mr. Grady.

Q. How did you ask him? A. I brought him with Dr. Peters, and they both talked it over.

Q. You brought them down to the headquarters? A. Yes, sir; he came there on Friday or Saturday, or on Sunday, I think it was. Him and Dr. Peters met and I introduced them.

Q. Senator Grady is the leader of the minority in the Assembly, is he not? A. Yes, sir.

Q. You sent for him, did you not? A. No, that was his time down. He comes down every Friday, I think.

Q. You expected him down there? A. Yes, sir.

Q. And you brought these two gentlemen together? A. Yes.

Q. And directed Mr. Grady to do what he could to assist the position of Mr. Peters? A. Yes, sir.

Q. In what words did you give that direction? A. Just the way you have just spoken.

Q. You directed him? A. Yes, sir; just asked him. To do what he could. Not directed him—I asked him if he would assist him, and I introduced him to him and they talked it over some time together, and I left them both together.

Q. After that he stopped his opposition? A. I think he did all he could to help Dr. Peters.

Q. So that your wish is a powerful wish with the minority at least, in the Senate, is it not? A. I try to make it that way when I think I am right.

Q. Has not your wish some power with members of the majority of the Senate as well? A. Well, I don't know. I never meet them.

Q. Have you ever tried to influence their action? A. Not one of them, no.

Q. It is only fair to you to say that if you have any proof, anything that you wish to adduce as showing the reasons which you have given for the appointment of this committee and for this investigation, you are at liberty to do so? A. Well, I am not going to start in to try to prove it. You must prove that it is not so. I am not going to start in to prove it.

Mr. Moss—That may be your position, but I simply want to give you the opportunity.

The Witness—Yes, sir.

Mr. Moss—I want to say to you that so far as the counsel are concerned, and I am sure so far as the committee are concerned, we do not know anything about it.

The Witness—No. Well, I hope it is so.

Mr. Moss—If you have the proof, if you have anything to substantiate such important words from so important a man, you have the opportunity to produce it and you shall have the opportunity.

Q. You not only exercise an influence by way of advice, or in some way, upon the gentlemen at Albany, but you do also upon the legislators in our city, do you not? A. Yes.

Q. You advise with them and direct them sometimes, do you not? A. Very seldom; no.

Q. Scold them sometimes? A. No; very seldom.

Q. Do you remember when you warned the city law makers here very recently that they must get together and pass legislation? A. No; I did not. I don't remember that—not in those words.

Mr. Moss—Perhaps not in those words. I have here an extract from the Herald of January 10, 1899: "Richard Croker, at a special meeting of the Tammany Executive Committee yesterday afternoon, warned the Tammany members of the Municipal Assembly that they must in future attend more carefully to their duties or receive the censure of the organization." Do you remember that?

The Witness—Yes, sir.

Q. And that was true? A. Yes, sir.

Q. If you are not a member of the Board of Sachems you are a member of the executive committee, are you not? A. Yes.

Q. And that is the committee which has to deal with the political affairs of the city, is it not? A. Yes, sir.

Q. (Reading), "There are several matters pending before the Municipal Assembly which Mr. Croker desires to have disposed of. Among them are the appropriation of \$100,000 for preliminary foundations for the two proposed new bridges to Long Island City and to Brooklyn, and the ordinance providing for the appointment of a commission to revise the Building Laws. Owing to the repeated absence of Tammany aldermen the opposition has been able to block this legislation, and has even made capital by pointing out that Tammany treats the new bridges as of more importance than rapid transit." That is a fair statement of the situation, is it not? A. Well, yes.

Q. How? A. I simply called their attention to be in their seats at the proper time and to perform their duties; that is all. I never spoke about any bills.



Q. But those were matters under consideration at the time, were they not? A. I don't remember that. I don't know anything about that. I could not tell you that. They may be and they may not be. I don't know.

Q. (Reading), "Said Mr. Croker to the Tammany leaders, members of the Municipal Assembly are neglecting their duties by not attending its meetings." You said that? A. Yes, sir.

Q. (Reading), "As a consequence ordinances which should be passed for the welfare of the city are blocked. These men are paid by the city to do their work, not to neglect it. The organization will be responsible for what they do. I want to ask you all to see that members attend the meetings of the Assembly in the future." That is correct? A. That is correct.

Q. So that at the meeting of the executive committee of Tammany Hall you gave out the directions to your associates that they should see that the Tammany members of the Municipal Assembly were present in their seats, to pass upon the matters that were then pending? A. Yes, sir.

Q. And were not those matters the bridge resolution? A. That I don't know.

Q. And the Building Code resolution? A. I don't know what was pending at the time. I meant all matters pending for the city in general.

Q. How did you know that members were not attending? A. I could see by the papers, the public press.

Q. Did you find out why they were not attending? A. No; I did not.

Q. Then did they attend after your warning? A. I believe they did; yes, sir.

Q. And they passed the bills that were before them? A. I don't remember what bills they did pass at the time; but I remember they attended to their duties a little better.

Q. Their duties included the passing or rejecting of bills? A. Yes, sir.

Q. And it would be of no use to have them in their seats if they did not vote upon the bills that were pending, would it? A. No.

Q. They did vote upon the bills that were pending, did they not; one way or the other? A. I don't know what bills were pending.

Q. Whatever they were, that was your object—to have them act upon the legislation? A. Yes, sir.

The Chairman—Did you get Mr. Croker's reply? He said they did attend to their duties a little better after that?

Mr. Moss—Yes, sir.

Q. They did go and vote one way or the other upon some bills, did they not? A. I didn't watch their votes at all. I presume they did.

Q. You had no complaint that they were not voting, had you? A. No.

Q. If you had had complaints that they had simply gone there to attend and then did not vote upon anything, you would have called them to account, would you not? A. Yes, sir.

Q. It would be their duty to vote one way or the other? A. Yes, sir; that is it.

Q. You would have seen to it that they did, would you not? A. I did all I could to bring them there, by talking.

Q. You would have done your best to bring them? A. Yes.

Q. That you consider to be one of the functions of your position as chairman of the executive committee, do you not? A. I am not chairman.

Q. As a member of the executive committee? A. Yes, sir.

Q. Who are the other members of the executive committee? A. You just read a lot of them.

Q. Is Mr. Carroll a member of it? A. Yes, sir.

Q. Is Mr. Peter F. Meyer a member of it? A. No.

Q. Is Mr. Sexton a member of it? A. Yes, sir.

Q. Do you remember when Mr. Peters, the borough president, died? A. I am not quite sure whether Peter Meyer is a member or not. I want to correct that now. He may be, for all I know.

Q. Do you remember when Mr. Peters, the president of the borough, died? A. Yes, sir.

Q. Were you consulted about the selection of his successor?

A. Yes, sir.

Q. Did you select his successor? A. No; I did not. I helped to select him, by recommendations of others.

Q. He was entirely satisfactory to you, was he not? A. Yes, sir.

Q. Before the Assembly met he had been selected and approved by the council of advisers, whoever they were, of which you were one, had he not? A. He was recommended to the mayor by several people, I presume, besides us.

Q. But he was discussed in practically a small body of men, before the name was brought up in the Municipal Assembly? A. Yes, sir.

Q. Or in the council, I should say; and there, as a matter of course, the gentlemen who were present who were members of the organization voted for the man who had been selected? A. That is correct.

Q. They were bound to do that as loyal members of their party? A. Yes, sir.

Q. You and your associates selected Mr. Coogan, and then, as a homogeneous body of Democrats, they put through the will of the organization? A. Yes, sir.

Q. You never heard of any disposition to kick about that matter, did you? A. No, I did not.

Q. By the way, did you not send a letter to Mr. Grady about the Amsterdam avenue bill? A. I don't remember. I don't think so. I am not quite sure.

Q. There may be such a letter in existence, may there not, so far as your recollection goes? A. Let me see, now. I do not recall whether I did or whether I did not. If I did, I would tell you so. If I did not I would tell you so.

Mr. Moss—Yes, I believe that.

The Witness—Of course, I don't think it is of much consequence, either one, whether I did or not. I don't quite remember, I might.

Q. You yourself are not an officeholder in the government? A. No.

Q. And not in receipt of any salary from the city, the county, the State or the United States? A. No, sir.

Q. Entirely a private citizen? A. Yes, sir.

Q. And your only relation to these public affairs is the political position which you have in Tammany all? A. That is all.

Q. But that does give you a practical relation to these matters, does it not? A. Well, no.

Q. By the way of advice or assistance? A. No; the same as any other citizen who is recognized and who is liked and respected. That is all.

Q. Do you know of another citizen who has to-day his wishes respected as you have? A. Some has in this city; yes, sir.

Q. Who? A. Not at this present time, probably. Not so much as me. There are others have their influences, but probably not to such an extent as me.

Q. So that at the present time your influence, politically, is larger than the influence of any other man that you know of? A. I don't know about that.

Q. You may be a little modest about it, but if I say so, you will not contradict me, will you? A. You can say so. No; I won't contradict you.

Q. At the time of the increase in the assessed value of real estate, and the prospect of increase in the tax rate, you took considerable interest in that matter, did you not? A. Not at all.

Q. Did you not talk about it? A. No.

Q. Did you not talk about it in such a way that your opinion of it was published in the newspapers? A. Not as I know of.

Q. I will remind you by a clipping from the Evening World of January 14 of this year. A. It must be correct if it is in the World.

Mr. Moss—I am sure that the World will appreciate the compliment. I have a great many clippings from the World on this business.

The Witness.—If you take your facts from the World you are going to get all mixed up.



Q. Then you withdraw the compliment? A. You know what that compliment meant.

Mr. Moss—To the World, I mean?

The Witness—Yes, sir. I say you know what that compliment was.

Q. Now, let us see if it is substantially stated. "Mr. Croker emerged from the Democratic Club at 10.30 o'clock—— 'it isn't Tammany's fault,' returned Mr. Croker quickly; 'it isn't our fault. Everybody knows that the big taxation is due to the consolidation of the five boroughs into Greater New York.'" I guess you said that, did you not? A. I said that part. What is the rest? Pick out the good parts now.

Q. (reading). "The increase in salaries will not foot up more than \$50,000 all together. I was talking with the mayor about that last night. But suppose it was as high as you say, why, don't you know that would not add five cents on each piece of real estate in the five boroughs?" Did you say something like that? A. Yes, sir; I did.

Q. You did talk with the mayor about it, did you not? A. I can't say. I think I did, probably.

Q. You often talk with the mayor, do you not? A. I believe I did; yes, sir.

Q. The mayor could not have appointed these gentlemen that were friendly to you, and whom you approved for the subordinate positions, unless you did talk with him, could he? A. No, not very well.

Q. And so the appointments of the heads of departments by the mayor registered your best judgment? A. Yes, sir.

Q. And substantially the will of the organization, as expressed through you? A. Yes, sir. They met his approval just as well.

Q. But he, as a faithful member of the Tammany organization, did what the organization had decided upon? A. Yes, sir.

Q. And the organization had not decided upon that in mass meeting, had it? A. No; it had not.

Q. But had decided upon it in conclave of leaders? A. Yes, sir.

Q. And you were looked upon as the most influential man of those leaders, were you not? A. You have stated that already, two or three times.

Q. If I say that, it is all right? A. Yes, sir.

Q. There were these statements further. "It has been suggested," went on the reporter, "that possibly the increase of valuation for taxation was a scheme looking to an increase in the city's power for increasing the bonded indebtedness, for the purpose of enabling the carrying out the scheme for rapid transit in Manhattan borough." "Look here, young man, just print what I say. I am in favor of rapid transit, although I have been falsely quoted against it. I am for it; Tammany is for it. Everybody is for it. If Tammany was to declare against rapid transit the rapid transit commissioners, would the work go on in no time at all? They know we are not opposed to it. If we were to come out hot for rapid transit, those fellows [the commissioners] would be against it."

Q. Was that portion of the conversation right? A. That is correct.

Q. We have it then that this tax business was a matter that was in your mind, and you had talked with the mayor about it?

The Witness—In what way did you put that tax matter?

Mr. Moss—The tax matter increase was in your mind, and you had your views upon it, and you had talked with the mayor about the increase of salaries and so on?

The Witness—Increase in salaries?

Mr. Moss—Yes.

A. No; I had not.

Q. You did talk with the mayor about the general subject of increase of taxes? A. I never talked with him about the increase of salaries.

Q. About the increase of taxation? A. Very little I talked with him about it. Very little. I don't remember it. The in-

crease of salaries was made entirely without my knowledge, and the increase in the city of New York, as I understand it, didn't amount to over \$40,000 in the whole city.

Q. The increase of salaries does not increase to over \$40,000 in the whole city? A. So I am told. I don't know how correct that is. I am told it don't amount to over \$40,000 in the whole city.

Q. Was not the conference about the selection of a president to succeed Mr. Peters conducted by yourself, Mr. Carroll and the mayor?

The Witness—Conference of what?

Mr. Moss—To select the successor of Mr. Augustus W. Peters?

A. No conference at all.

Q. Was not that conference entirely by yourself, Mr. Carroll and the mayor? A. No conference at all over it.

Q. How did you talk about it? How were your views given? A. Simply recommended him, with a lot of others who recommended him also.

Q. I understand that; but where were these recommendations considered? At the Democratic Club? A. Yes, sir; probably.

Q. By whom? A. By different people.

Q. Were they not finally yourself, Mr. Carroll and the mayor? A. No.

Q. Were there any others? A. No conference at all about it.

Q. Were they not the gentlemen who considered the recommendations? A. They might consider it, but there was no meeting or conference about it at all.

Q. It was known that you favored him, was it not? A. Yes, sir; he was simply recommended by several others as well as myself, to the mayor, for the appointment.

Q. He was a gentleman who assisted you in London about a year before, was he not? A. Yes, sir.

Q. And suggested to you that you should run as a candidate for mayor yourself, did he not? A. Yes, sir.

Q. You did not forget that when he was a candidate? A. No. That had nothing to do with it at all.

Q. The organization also discusses the candidates for judicial positions, does it not? A. Yes, sir.

Q. And for judicial positions in all the courts, whenever there is an election? A. Yes, sir.

Q. And the gentlemen who are selected to run on the Democratic ticket for judicial offices are gentlemen who are acceptable to the executive committee and the advisors of the Tammany organization, are they not? A. Yes, sir.

Q. Naturally so? A. Yes, sir.

Q. Do these gentlemen pay any money to the organization as contributions to the expenses of the campaign? A. Well, I don't know about that. I could not tell that.

Q. How? A. I could not tell you that.

Q. Are you not chairman of the finance committee? A. Yes, sir.

Q. And you know what moneys come in, do you not? A. Not always; no.

Q. Do you render an account of the moneys received and disbursed by you as chairman of the finance committee? A. No. I do not. The finance committee very seldom has a meeting. I do not know if they had a meeting at all last year.

Q. The contributions pass through your hands personally, do they not? A. No, sir.

Q. Don't you ever endorse the checks? A. If they are made out to my order.

Q. They are made out to your order sometimes? A. Sometimes, I say. When they are I do.

Q. Then you endorse them? A. Yes, sir.

Q. There are large sums that come into the finance committee in the Tammany organization for election matters are there not? A. Sometimes; not very large. It all depends on what you call large.

Q. What I call large and what you call large may be very different? A. Yes, sir.



Q. You have been talking about expansion a good deal lately, have you not? A. Not much; no.

Q. You are in favor of expansion, are you not? A. Yes, sir, I am to a certain extent.

Q. And I do not wonder that our ideas about the size of money matters do not exactly agree. We are not on the same basis, of course; but do not many thousands of dollars go through your hands, or through the hands of the finance committee of Tammany Hall, or of the political organization? A. There is no money at all goes through the finance committee.

Q. Who receives the money for the campaigns? A. The treasurer.

Q. Who is he? A. John McQuade.

Q. Do all the moneys received for political use in the Tammany organization go through his hands? A. Yes, sir.

Q. Every dollar of them? A. Yes, sir.

Q. It has been the custom for many years, has it not, for candidates for offices to contribute to the campaign expenses? A. Yes, sir.

Q. And that holds good of judicial candidates as well as of others, does it not? A. Yes, sir.

Q. And have not judicial candidates paid contributions to the organization or to its representatives, amounting to \$10,000, \$15,000, \$18,000 sometimes? A. No, sir.

Q. How much have they paid? A. I could not tell you that. Nothing like what you say.

Q. Never? A. Well, they might fifteen or twenty years ago.

Q. But how about recent times? A. In recent times they have not.

Q. Have they paid as much as \$8,000? A. Probably they have, seven or eight.

Q. Seven thousand dollars or \$8,000? A. The county clerk's returns will show all that.

Q. Have they not paid moneys in excess of what appears in the county clerk's returns? A. Not that I know of.

Q. Who would know? A. I don't know who would know that. Their district leaders probably might know that. If there was any in excess of that, it would be done there. If would not be done in the general organization.

Q. If there was anything in excess it would be done in the district? A. If they wanted to do it at all—in which they lived, yes, sir.

Q. Do you not know as a matter of general knowledge which all citizens have, that judicial candidates as well as others pay their assessments for campaign expenses? A. Yes, sir.

Q. They are assessed, are they not? A. The returns show that.

Q. They are assessed, are they not? A. Assessed by the districts, yes, sir.

Q. And they are expected to pay the assessments? A. Expected to help pay a part of the expenses of the organization.

Q. But the amount of the expense is definitely understood beforehand, is it not, as a matter of business? A. That is a matter between the leader and the candidate in the district.

Q. But it is understood beforehand as a matter of business that the candidate must contribute, is it not? A. No, not exactly that. It is not understood at all all around. Probably some might say that they would contribute, and leave it to the candidate whatever they wanted to contribute.

Q. Have you known of any cases where candidates for judicial positions have not contributed? A. There is no regular levy put on them at all, and no regular assessment, that I know of at all.

Q. While they are judges, they are expected by the organization to keep in line as faithful members of the party, are they not? A. They are expected to go there and do their duty as judges, irrespective of the party.

Q. But as members of the party? A. That is the first consideration.

Q. As members of the party they must be loyal to it in all matters that they can be? A. All things being equal, we expect that.

Q. They must appoint their subordinates, as a true member of the party should? A. They should do it, yes, sir. They do not always do it, but they should do it.

Q. And Tammany Hall expects them to do it? A. Expects them.

Q. (Continuing.) If they take her nomination, does it not? A. Yes, sir.

Q. In all matters of patronage, they should consider the organization, should they not? A. First, yes, sir.

Q. Even in the appointment of referees? A. Yes, sir.

Q. There are able, good Democratic lawyers in the city of New York? A. Yes, sir, there is.

Q. Enough to fill all the positions as referees? A. All the places.

Q. And you think that the judges should appoint as referees men who are in line with the Tammany organization? A. All things being equal they should, yes, sir. They should give them the preference.

Q. And generally they do? A. Not generally, they do not. We sometimes find one that won't.

Q. And that applies to the commissioners of condemnation for opening parks and streets and such things, too, does it not? That is a part of the patronage? A. Yes, sir.

Q. You look upon all the positions which a judge may give out, whether as clerk, referee, or commissioner, as legitimate matters of patronage, which he should yield to the organization that elected him? A. Provided we give him a proper man that will satisfy him.

Q. You do not go as far as to say that he should appoint a man that was a thief? A. No, or a man that can't perform his duties. We do not expect him to do it.

Q. But if he can find among the Tammany men a man who is honest and a man who will perform his duties, he ought to give him a preference? A. Yes, sir.

Q. And if he does not give him his preference, he loses his standing in the party? A. He does not stand so well, no.

Q. And he would not naturally be renominated, would he? A. Not in all cases; sometimes they do.

Q. Sometimes, but it is not a natural thing that he should be? A. It is not necessary he should, no.

Q. Who has been renominated that has disregarded the wishes of the organization as to patronage? A. There are lots of them.

Q. Who? Come into recent years, not fifteen or twenty years ago, but recent years? A. I do not want to talk about these men that I believe have done it.

Mr. Moss—I think you should.

The Witness—I won't talk about men that I think have not done that; that I think have betrayed the party.

Q. There are those, you mean, who have betrayed the party? A. There are men on the bench now that have not done that.

Q. On the bench? A. Yes, sir.

Q. Are their lapses very noticeable? Does it amount to much? A. A few.

Q. Do you not know that in those cases the men they appointed were personal friends? A. Of their own.

Q. And honest men, so far as you know? A. Yes, sir.

Q. And capable men so far as you know? A. So far as I know, yes, sir.

Q. But because the judge had appointed an honest and capable man who was his personal friend, and not on account of the organization, naturally he is out of line with the party that elected him? A. We expect he will take the organization man.

Q. That is the theory of the city government right through, that the organization in control should have all the offices in every department? A. Yes, sir.

Q. Judicial, executive, administrative and everything? A. Yes, sir, that is what I believe the people voted our ticket for.

Q. And that is why you have the emblem of the tiger, who has a large mouth, which is constantly open? A. Yes, sir. That was so when we put you out of the Police Board. You saw that in print, didn't you?



Mr. Moss—Exactly.

The Witness—You did not read that. That was in print, too.

Q. I want you to remind me of those little things. I am going to have that thing framed. A. You keep that.

Q. I understand my decapitation was the first one that was performed. Do you know that? A. Yes, sir.

Q. You know that? A. I know that.

Q. Why did you do that? A. To put a good Democrat in your place.

Q. You did it, did you not? A. Yes, sir.

Q. You cut my head right off? A. Right off.

Q. You meant to do it, did you not? A. Went right at it.

Q. That is a matter of interest because it affects me personally, and I would like to know how you did that. I never understood it? A. We didn't mean it personally to you, but the party you belonged to.

Q. You did not find fault with the way I did my work? A. You done it good, I mean from a political standpoint, I didn't approve of your work on the Police Board.

Q. You did not approve of my notions on those things? A. No.

Q. But so far as effectiveness—— A. For your party you did it well.

Q. How did you go to work to get me out of that place? A. You went to the Bowery and done all that you could over there.

Q. I want to ask you—we are getting along very well, and I did not think we would have an ugly time when we got together; and I do not mean we shall at all. A. Oh, no.

Q. I want to know now, as it interests me very much, how you did that thing. I thought I was doing my work fairly well? A. That is not the way Tammany Hall does.

Q. Will you please tell me the modus operandi? How was it accomplished? A. Recommended a man for your place, the same as you spoke a little while ago.

Q. Did you recommend a man for the place? A. Helped to, yes, sir.

Q. To the Mayor? A. Yes, sir.

Q. He did what you wanted him to? A. Yes, sir; the man was a friend of his, too. Every one of those gentlemen that he appointed are his friends as well as they are mine; and have been all along, and that is why they nominated him for mayor.

Q. You have a pretty effective organization? A. We try to have.

Q. It does the work every time? A. That is what we are there for.

Q. What was this some reporter got up here; I want to see what that was. This time it is from the Herald and not the World; and it has some pretty pictures in it, too, evidently taken from the Democratic club. The title of this is "One day in the Life of Croker, Political Boss of New York." It is under the date of March 5, 1899: "Discipline, the keynote of Mr. Croker's success." That is right, is it not? A. I don't know about that, whether that is right or not. I don't know whether that is my success or not.

Q. You do have discipline, do you not? A. There is a good deal you can attribute to a man's success, many things.

Q. You do have discipline, do you not? A. We try to.

Q. (Reading.) "Keeps the whip in hand over his henchmen." That is right. It is the only way to succeed? A. Yes, sir.

Q. A great many of these men would think only about what they could do and have by themselves, if the leader was not looking after them, would they not, in all parties? A. Yes, sir, I imagine so.

Q. They have got to be kept in line, have they not? A. Yes, sir.

Q. And it takes a lot of time? A. In Tammany Hall we have to keep them in line all right.

Q. It takes a lot of time and patience? A. Yes, sir, and patience.

Q. You work pretty hard at it? A. Very hard.

Q. The title of this article "One day in the life of Croker, Political Boss of New York," fairly covers the situation—"Political

Boss". I do not understand that to be an offensive term, but it is an American term? A. That is about four times you have said that, now.

Mr. Moss—I am trying to get an answer about that.

The Witness—I will leave that to you.

Q. You do not deny it? A. No.

Mr. Moss—I think I will ask you to take this chair a moment. I want to call Mr. Peckham. I will suspend the examination of the witness.

The Witness—Mr. Moss, I have got a meeting at 4 o'clock.

Mr. Moss—I think we will probably adjourn by 4 o'clock. I will do the best I can.

Q. You have a real estate office at 111 Broadway, have you not? A. Yes, sir.

Q. And your partner there is Peter F. Meyer? A. Yes, sir.

Q. You do find time in the midst of these political matters to attend to some private business, do you not? A. Yes, sir.

Q. Is Peter F. Meyer connected with the Dock Board? A. Yes, sir.

Q. And he makes judicial sales, does he not? A. Yes, sir.

Q. A great many up there? A. Yes, sir, quite a number.

Q. And you are his partner in that business, are you not? A. Yes, sir.

Q. And whatever advantages Mr. Meyer gets in his business you share up with him, do you not? A. Yes, sir.

Q. Halves? A. Yes, sir.

Q. In 1892 Mr. Meyer was simply a member of the firm of A. H. Muller & Company, was he not? A. I could not tell you; 1892.

Mr. Moss—Eighteen hundred and ninety-two.

The Witness—I could not tell you that—what firm he was connected with.

Q. You remember that Mr. Meyer was engaged then in the auction business of real estate on Liberty street on the old Exchange?

A. Yes, sir, I remember that.

Q. And you know that at that time there was a large distribution of the judicial sales, distributed generally among the auctioneers, do you not? A. I think that was the way; I don't remember now.

Q. And that the sales were removed to 111 Broadway, when you went in as partner of Mr. Meyer? A. Yes, sir.

Q. You helped him to secure the removal of the sales to 111 Broadway, did you not? A. I didn't help him, no.

Q. Did not your becoming a partner of his help him? A. Yes, sir, I became a partner of his.

Q. In order to remove the judicial sales from Liberty street to 111 Broadway, it was necessary to secure the action of the judges, was it not? A. Yes, sir.

Q. And some of the judges signed for it and some did not? Do you remember that? A. Yes, sir.

Q. That was a matter in line with the organization, and a matter in which the Tammany Hall judges should have signed without question? Is not that so? A. Well, there are sometimes cases where there are Tammany Hall men interested on the other side, too. There were a good many interested in Liberty street at that time, in the other place; a great many Tammany men connected with Liberty street at that time——stockholders.

Q. As a matter of fact it went to the judges as a proper thing to do for the organization, did it not? A. Well, I don't know as it went in that form to the judges at all.

Q. Did they know that you were a partner of Mr. Meyer?

The Witness—At the time they made the assignment?

Mr. Moss—Yes.

A. I don't think they did. They may have known.

Q. Did you yourself talk with any judge about the removal of the salesroom? A. I don't remember doing it.



Q. You did not conceal the fact that you had gone into partnership with Mr. Meyer, did you? A. No, I did not.

Q. Mr. Meyer's office was at 111 Broadway at the time, was it not? A. Yes, sir, I think it was.

Q. And your name was on the door, was it not? A. Not at that time, no.

Q. You know that since the judges removed the auction room in 1892, the firm of Meyer & Croker have had a very large increase in the matter of judicial sales, do you not? A. Increase, yes, sir.

Q. Increase in the business? A. I don't know what the business was in the other place. I don't know anything about it. I could not tell you.

Q. Do you not know that at the present time your firm has nearly all the business of the judicial sales? A. Yes, sir, I think so.

Q. You know that? A. I believe they do.

Q. And these judicial sales are sent there by the judges, are they not? A. Yes, sir.

Q. Why do the judges send nearly all the judicial sales to Mr. Meyer? A. I don't know. The judges don't do it direct I believe. It is their referees or through their appointments.

Q. The judges don't do it direct; it is through their appointments? A. I don't think so. I don't know. You ought to know.

Q. The judge appoints a referee, and the referee selects the place of sale; is that the way you understand it? A. I think so, yes, sir.

Mr. Moss—Then it is this way—

The Witness—I don't know the form that goes through.

Mr. Moss—You are in the business. I want to see if you do not know about that.

The Witness—I know very little about it.

Q. The judge selects the referee, the referee selects the auctioneer and the auctioneer selects the place. That is the way of it, is it not? A. I don't know.

Q. The place is fixed—— A. Why no, the auctioneers are all there. You are a lawyer; you know all about it.

Q. The sales are all fixed, anyway, beforehand at 111 Broadway, that you understand? A. Yes, sir.

Q. The judges appoint the referees and the referees select the auctioneer. Is that it? A. The auctioneer of the place. There are several auctioneers in there, you know.

Q. Who selects the auctioneer?

The Witness—The particular auctioneer to do that particular sale?

Mr. Moss—Yes.

A. I suppose the court. The referee, probably.

Q. You have already said that the judges selected by Tammany Hall ought to consider matters of patronage right through? A. Yes, sir.

Q. That is to say, in the matter of the appointment of referees? A. Yes, sir.

Q. Now, if the judge has appointed a referee who is in line with Tammany Hall, then you would expect that referee to make such a selection of anybody under him as would be beneficial to the organization, would you not? A. Yes.

Q. And generally that is a selection of your firm as the auctioneers, is it not? A. Our firm—the auctioneers are all in there.

Q. It is generally a selection of Peter F. Meyer, your partner, as the auctioneer, is it not? A. He is the head auctioneer, yes, sir; under him there are a great many auctioneers in the room.

Q. There are, you say, a number of auctioneers under Mr. Meyer? A. Yes, sir, in that room.

Q. But they are accountable to him, are they not? A. They sell in that room.

Q. But the auctioneers are accountable to Mr. Meyer? A. They only pay rent for their stands in that room. That is all.

Q. Pay rent to Mr. Meyer? A. Yes, sir.

Q. But when Mr. Meyer is appointed as auctioneer, he controls the auction, does he not? A. No; he does not.

Q. If he is appointed auctioneer, how is it he does not control the auction? A. There are auctioneers in there that are not Tammany men. There are Republican auctioneers; all kinds of auctioneers.

Q. But the auctions that are given to Mr. Meyer are controlled by him, and the profits go to himself? A. Direct to himself, or to men under him.

Q. To his office? A. There are a great many men under Meyer.

Q. I think you do not understand me. You must know—— A. If it was sent directly to Peter Meyer himself. Is that what you mean?

Q. You must know that an auctioneer is appointed to sell a particular piece of property, do you not? A. Yes, sir.

Q. And if that auctioneer is Mr. Meyer, or any other man, he gets the emoluments from that proceeding? A. Yes, sir.

Q. And you are a partner with Mr. Meyer and participate in the emoluments? A. Yes, sir.

Q. And all the sales that are held at 111 Broadway are held by men who pay rent to Mr. Meyer? A. Yes, sir.

Q. And in that rent you participate, do you not? A. Yes, sir.

Q. Are there any other members of Tammany Hall who are partners of Mr. Meyer's? A. No.

Q. Then let us see what that results in. Let us see if my deductions are correct. The judges elected by Tammany Hall appoint referees, who, in line with their party obligation, appoint auctioneers, and these auctioneers—— A. They don't appoint auctioneers; the judges don't appoint auctioneers.

Q. The referees appoint the auctioneers? We have agreed upon that, I think? A. Yes, sir.

Q. And it is the duty of those auctioneers—— A. That referee is appointed by the judge, and he appoints whatever auctioneer he pleases.

Q. But if that referee is a good Tammany man he should appoint an auctioneer who is in line with the party, should he not, as a part of the patronage? A. It all depends on the kind of a Tammany man he is.

Q. If he appoints your firm he does a good party act, does he not? A. Yes, sir.

Q. Why? If he appoints your firm he does a good party act, you say. Now, I ask you why does he do a good party act when he appoints your firm? A. Well, all things being equal, he has a right to do it. He is a democrat himself and he ought to appoint democrats.

Q. And he ought to do that thing which puts into your pocket money, because you are a democrat, too? A. Yes, sir.

Q. So we have it, then, that you, participating in the selection of judges before election, participate in the emolument that comes away down at the end of their judicial proceeding, namely, in judicial sales? A. Yes, sir.

Q. And it goes into your pocket? A. I get—that is, a part of my profit.

Q. And the nomination of a judge on the Tammany Hall ticket in this city is almost equivalent to an election, on the history of the parties, is it not? A. Yes, sir.

Q. So that, if you have a controlling voice in the affairs of your party, and secure the nomination of true men, you may be sure that at least in the real estate exchange and in the firm of Meyer & Croker you will, as a true democrat, get some of that patronage? A. We at least expect he will be friendly to us.

Q. And you get some of the patronage? A. We hope so.

Q. Then you are working for your own pocket, are you not? A. All the time; the same as you.

Q. It is not then a matter of wide statesmanship or patriotism altogether, but it is a wide statesmanship, patriotism and personal gain mixed up, is it not? A. It is “to the party belongs the spoils.” I tell you that now right out, so that you can make it all right here. We win and we expect everyone to stand by us.

Q. To the party belongs the spoils and to the boss belongs the lion's share of the plunder? A. No plunder; no. You may call it plunder—if you call it plunder because the men are loyal to us; but you will send your bill in to the Legislature for the work you have done by and by, and you may as well call it plunder.



(Cries from the audience of "Good boy.")

The Chairman—If there is any repetition of that demonstration, this room will be cleared. I request that there will be no interruption by the spectators of the proceedings here, and if that is repeated the room will be cleared. The sergeant-at-arms will see that the order is carried out.

Q. You believe that I am working for money here? A. Yes, sir.

Q. You believe and say that you are working for your share of the money, as the boss of Tammany Hall? A. No; I am not. There is no "boss" at all.

Q. As a member of Tammany Hall you are working for your share of the money, as well as the glory? A. I want to get a living; yes, sir.

Q. You want to get your living? A. Not through plunder.

Mr. Moss—Perhaps that was a wrong expression. Spoils, you call it.

The Witness—No spoils, either.

Q. You said to the victor belongs the spoils, did you not? A. Yes, sir; to the victor belongs the spoils.

Q. And the spoils include the salaried positions and the various money matters that trickle down through the administration? Properly, I mean? A. Anything that comes legitimately and properly is the same as you are working for now.

Q. By that we mean money that comes legitimately and that properly belongs to the organization, does it not? A. Yes, sir.

Q. And you as the leader of the organization, expect to get your share, do you not? A. In that salesroom.

Q. In anything? A. Not unless I am engaged in a business.

Q. If you are engaged in a business, you expect to get it? A. Yes, sir.

Q. And you expect your associates to help you get it, do you not, in any honorable way? A. My associates have nothing to do with that business—real estate business.

Mr. Moss—I am not talking about the real estate exchange room now.

The Witness—What are you talking about now?

Q. I am talking about the general matter we have been discussing for five minutes here. You say, to the victor belongs the spoils? A. Yes, sir.

Q. And you say spoils includes money? A. I do not. It means offices. To the victor belong the offices, and to that party alone the offices should go to.

Q. But these offices, when they have things to go out that produce money—that should be kept in line with the organization should it not? A. The appointments in that office should go to democrats; yes.

Q. And you do not see any reason why you should not have a real estate business, or any other business, to which the referees' fees or the auctioneers' fees and such things as that should come, do you? A. I don't know about other business, but I know that the business I am in, it comes all right; legitimate.

By Mr. Hoffman:

Q. As to the condition with reference to the appointment of referees by the judges: Has that same condition applied in regard to republican judges in the city of New York, when there were republican judges? A. I don't know. I don't know anything about the republican judges. I don't know what they do.

By Mr. Moss:

Q. The great majority of the judges, fortunately for your party, are Tammany democrats to-day, are they not? A. Yes, sir.

Q. Coming down to the salesroom, you do not see anything inconsistent at all, do you, in your receiving a portion of the profits of that office, which comes through the appointees of the organization? A. No; I do not.

Q. That you consider to be your legitimate business, do you not? A. Yes.

Q. And you are willing to do a similar thing wherever it can be done, are you not? A. It all depends what sort of business it is.

Q. If it is an honorable business you are always willings to do it? A. I am not prepared to go into any other business at present. I have all I can do now.

Q. You think the Tammany men should stand together even in matters of business, do you not? A. I do; yes, sir.

Q. You believe they should stand together not only as to politics, but when they can help each other they should stand together in business matters, do you not? A. No; I do not; not the way you are trying to say.

Q. How do you believe that? A. I don't believe the way you are trying to put it at all. You are trying to bring about a state of things that there is a conspiracy to plunder the people. I don't believe in that at all. If you are trying to lead me to that, you can't do it.

Q. No; you are mistaken. My questions are meant to be perfectly straight, and meant to be somewhat in the language of the discipline of one of the churches that I remember having read—"Brothers should deal with brothers in matters of business, preferring each other." That is a free rendering of something I have read in the discipline of one of the churches, as a rule of the church. Is it not so in matters of Tammany Hall; all things being equal, members of the organization should support each other in business matters? A. I don't know what you mean by that. I can't understand what kind of business you mean.

Mr Moss—I mean any business?

The Witness—I don't understand. If they are members of the departments, it is not likely they will go into any other business.

Q. Suppose, for instance, you, Richard Croker—

The Witness—Neglected their duties there?

Mr Moss—You see the trouble is you are looking beyond my question and fearing something.

The Witness—No; I am not fearing anything. I don't fear you at all. Don't you be alarmed about that.

Q. There is no reason why you should. Now, let us see if we can get to that. You are a member of the firm of Peter Meyer?

A. Yes, sir.

Q. Peter Meyer and you desire to have judicial sales. Those judicial sales come through referees who are appointed by judges, the line right through being democratic. Is it not entirely consistent with honor and integrity that those judges and these referees should appoint your firm as the auctioneers? A. Yes, sir.

Q. Perfectly right, is it not? A. I should think they would, but they don't always do it.

Q. You should think they would? A. Yes, sir.

Q. You realize they ought to do it, because it is an organization matter right through? A. They are not asked to it.

Q. They ought to know it without being asked? A. I say they are not asked to.

Q. They ought to know it without being asked? A. Yes, sir; they ought. Democrats ought to be appointed to all places.

Mr. Moss—I ask you to take a chair and rest for a moment. I will now call Mr. Peckham.

WHEELER PECKHAM, being duly sworn, testified as follows:

Examined by Mr. Moss:

Q. You are the president of the Bar Association, are you not? A. No, sir.

Q. You have been? A. I have been.

Q. And have been a lawyer in large practice in the city of New York for many years? A. Yes, sir.

Q. Will you allow me to say—probably you will not have the hardihood to deny it—we look upon you as a leader of the bar?



You won't deny that, will you? A. I am not going to take any issue on that. I will neither affirm it or deny it.

Q. You were interested actively in the matters of corruption in the city of New York preceding the overthrow of Mr. Tweed, were you not, the boss of Tammany Hall? A. Well, I was actively prosecuting Tweed. I do not know as I was actively engaged in matters of corruption.

Q. You were exposing corruption? A. I was trying to.

Q. Will you please to tell some of the causes which in your judgment led to the corruption of that time?

The Witness—You ask a pretty broad question.

Mr. Moss—There is no one who can answer that question better than you can, and I think we will stop right here to get that answer.

A. I think the main cause of the corruption existing at that time was the construction of public works and the opportunity given to officials and quasi-officials to get a part of the plunder.

Q. Opportunities that came to them: first because they held public office, and second because they held together in political relations, controlling, through their connections, in public matters. Do I understand you correctly? A. Well, the immediate cause was human nature, I suppose. I do not know of any better answer than that—with an opportunity to steal they stole; that is all there was of it.

Q. Was not the condition then something like this: There was a dominant political organization which controlled the offices through which public work was done and these men acted together in concert and were controlled by a master mind and operated together for the purposes of their own gain? A. Well, we supposed that at that time there were three or four men, if I remember correctly—there was what was called the quartette, or some name of that kind. It has escaped me exactly, the slang of the day, as it were; but they had very great power; and they were not controlled by any special moral principle, and they had

the opportunity to steal and they did; that is about all I can say now.

Q. They looked upon the patronage which came through their position as legitimate matters for them to use for their own benefit? They came to believe that, did they not, and acted upon it? A. Well, the direct method at that time was simply this: That bills were rendered and were required to be rendered for larger amounts than were to be paid to the men who rendered them; and the surplus over and above the amount that was given to them was given to the people who controlled the political situation at that time, some of whom were office holders. I guess they were all office holders.

Q. One was not? A. Who was not? I do not remember now who was not.

Q. Was not the man whom you prosecuted out of office?

The Witness—Out of office?

Mr. Moss—Yes.

The Witness—Who do you mean?

Mr. Moss—Was not Mr. Tweed out of office?

A. No; he was in office.

Q. What office did he hold? A. He held either the deputy commissionership of public works, or was commissioner of public works. At the time proceedings were commenced against him my impression is that he was senator. Maybe he was commissioner of public works at the time. If you had advised me any way at all what you wanted before I came here, I would have given it to you accurately.

Q. I want to ask you if it is a matter of general belief, common rumor in the legal profession, that judicial candidates are assessed for their nominations? A. I suppose I can answer that, yes. I think it is generally assumed that a candidate for a judicial position pays somewhere or other, either for nominations or election, or assessment; in some way pays quite a large sum. Judges have spoken to me about assessments and deprecated the existence of it very strongly. I suppose the amount paid would

range somewhere between \$10,000 and \$25,000. That is, I do not say that any money was paid. I say the amount talked of or assumed as being about the sums that were paid or assumed to be paid, would range between those amounts. I know very little about the references that are made any more than the current talk. Anybody could tell it just as well as I. I rarely try references and do not pay much attention to them, although I have no doubt that a great many references are going on in my office. I do not mean that anybody is referee, but cases are there. I am not aware of anybody being appointed in the office, but there may be. There are a great many people in my office. I do not expect any. Let me correct my prior answer a moment, when I said I did not remember anybody being appointed. I do remember that my nephew, who is a partner of mine, some years ago was appointed referee two or three times, or a half a dozen times, more or less; quite a number of references. I imagine that it was a sort of—he had just come to New York and it was personal, it was a personal compliment or sort of courtesy of some judge who did it, either to my brother or to myself. I assume that referees are to a great degree appointed with reference to the judges recognition of the political party or political organization that nominated or elected him, and to which he owed his nomination. I think that is the general belief. I can say in a word what I suppose everyone knows as well as I do, or with just as much basis for knowledge as I have, that the judges of the court here recognize their obligation to the political organization which elected them, and they have a desire, and it is carried to a greater or less extent in the distribution of the patronage that belongs to them, to recognize that fact.

Q. Does not that tend to lower the dignity of the court in the eyes of the people and in the eyes of the profession? A. Well, I think it does, and I think myself that the system is a bad one; as bad as it is possible to be; I think that the judicial character and position is elevated precisely in proportion to its lack of any patronage whatever. The more it is without patronage, the higher it stands. I do not mean to say that a judge cannot ap-

point excellent referees, and cannot act in a perfectly proper manner, recognizing what they call the obligations to their party. It simply puts a man in a double position. If a man is the beneficiary of a party or organization, he naturally feels a gratitude to those people, and it is highly proper that they should so feel in my judgment. I believe in gratitude and recognizing the people that are about you. On the other hand that feeling may well carry one a little too far, and swerve him from the duty he owes to the public. It puts him in temptation. My notion of the position of a judge is that he should be put away up above temptation. I believe in the words of the prayer, "Deliver us from temptation," and therefore I would say to any man who wanted to be perfectly sure that he would be the highest type of a perfect judge, to get rid of every temptation that could surround him. That is the only way I can think of.

Q. Is it not a fact that some of the judges wish they were without the power to appoint referees, so far as you know? A. I do not know that I ever heard any judge express any opinion on that. I am not quite sure. I would have rather the impression that I have, but I can't say who, or when, or where. It is a vague impression.

Q. Do you remember when the law was passed prohibiting attorneys from becoming bondsmen? A. I do not remember when the law was passed. I know there is such a law. It has been in force quite a while.

Q. Was not the effect of that to relieve lawyers from annoyance, and to help them out of difficult positions? A. I think that every lawyer welcomed that law.

Q. Do you not think that a change in the system of appointing referees, and of patronage generally, would tend greatly to the elevation of the bench, and to its greater respect in the eyes of the community? A. I certainly do believe that every possible temptation that can be removed from a judge is a distinct advantage to that judge, be he who he may.

Q. Have you heard in your long practice of cases where referees have unduly prolonged matters sent to them, and where



referees' fees and stenographers' fees have become a serious burden upon litigants? A. Oh, yes. You hear of wrong doing in everything, almost, and it is unquestionable that there are some referees who ought not to be referees, and who have done what they ought not to do.

Q. Those matters are always difficult to reach, are they not; because the referee is a sort of judge, and it is difficult to complain against him? They are hard to handle, are they not? A. It is an unattractive undertaking to attack a referee or judge.

Q. Do you think the judges should be relieved from this system of judicial assessment and from patronage, as far as it is practicable to relieve them? A. If I had the power to enact a judicial system, the two points which I would first endeavor to accomplish would be to make the judges as absolutely independent as possible, by giving him a reasonable fair salary, and as long a tenure of office as could be done, to remove him from any possible temptation to do what he might not otherwise think of doing, by eliminating from his position every possible idea of patronage.

Mr. Moss—I think that is as far as I want to examine Mr. Peckham. Is there anything in your mind?

The Witness—I can only say that is a typical object to seek.

Mr. Moss—An ideal object?

The Witness—An ideal object; yes sir. How you are going to get it so long as human nature is what it is is a difficult problem.

Mr. O'Sullivan—I want to get a little more light on some matters Mr. Moss has gone over.

The Chairman—What matters do you wish to ask about?

Mr. O'Sullivan—I would like to ask Mr. Peckham, who has given a great deal of attention to the subject of references and the incorruptible and corruptible judges, whether the formula that he prescribed just now, which was that of high salaries and long tenure—

The Witness—Not high salaries, reasonable salaries; appropriate salaries.

Mr. O'Sullivan—Good large salaries.

The Witness—Salary enough to make a judge independent.

Mr. O'Sullivan—What I would like to ask Mr. Peckham is, if that has insured incorruptibility in judges in other countries where they have used exactly that formula, by good large salaries and long tenures of office?

The Witness—I think there has been a very great improvement, an almost inestimable improvement in the character of the judges in England since their tenure was made one of good behavior. There is no question of that.

Mr. O'Sullivan—But is incorruptibility a consequence of just that formula?

The Witness—If you mean a necessary consequence.

Mr. O'Sullivan—Yes, I mean that.

The Witness—It is not. I do not know of any way of being absolutely incorruptible, except somebody reforms human nature.

Mr. O'Sullivan—You suggested that you would relieve the judges of their present patronage. You think they would be benefited thereby? That is, you imply that their corruptibility could be made almost impossible if such a thing could be done by law, the removal of their patronage?

The Witness—I do not say it would be impossible. I say it would have a strong tendency to relieve them from temptation. I say patronage is the bane of judicial office.

Mr. O'Sullivan—I am asking for information. How would you suggest that referees should be appointed?

The Witness—You are asking me at a moment when I have not given any thought to that matter, and had not the least idea what I was going to be asked about, to suggest to you the form of improvement in things, and it is pretty difficult to do it right away. I can only say in a general way what I have already said that I think the taking away from a judge of patronage would be a benefit and relieve him from any pressure to do what he might, but for that pressure, not incline to do.

Mr. O'Sullivan—As I understand your position, you would aim at diminishing the possibilities of corruption in judges by re-

moving the power to be corrupt, as it were—the power to appoint referees—and take all the patronage from them. Is not that your position?

The Witness—I would remove the temptation rather than the power. You cannot remove the power to be corrupt. A judge can say, “I will decide so and so for so much money.” I do not know any way to prevent them from doing it on the face of the earth. But if you take care that nobody offers them money, they are not likely to be corrupt. The ordinary office of judge, or the office of any ordinary judge, who requires to be a pretty good judge, with no very special ability—you may say that any man who has moderate and reasonable ability, and who is a man of integrity will make a very good judge; but the more you put that judge under temptation or liability to temptation, the more you diminish the chances of his being a good judge. He may be a good judge in spite of all the temptations you can give, or a bad judge notwithstanding you remove all temptation. I only say the chances of his being a good judge are vastly improved by removing all temptation.

By Mr. O’Sullivan:

Q. Do you know of your own knowledge one single judge in this county who has abused his patronage to the extent of being corrupt? A. Well, I know things that are done in this county, for which I can account in no possible way other than that in some way there is some understanding by which the men who benefit contribute to people whom they ought not to.

Q. Will you be a little more definite on that?

The Witness—In what way?

Mr. O’Sullivan—More specific as to what you mean. You have made a rather general statement—a failure to understand conditions.

The Witness—I think, for instance—I give you merely impressions. A thing that I have not definitely examined into. I only see something of it. I give you as an instance the appoint-

ment of appraisers in the Surrogate's Court. I find appraisers, the same men continually appointed. I find the appraisers in every single instance wherever they act demanding a very much larger sum than their statutory dues. I find them taking it if they can get it, and if they can't they go without it without any trouble. Now, when I find a regular set of men continued in all cases, appointed right along all the time, and constantly getting very much more than they ought to and always demanding very much more than they ought to, the thing is not pleasing to me. It suggests disagreeable inferences.

Q. You think the best way to remove such possibilities would be to deprive judges of their patronage? A. I do. I have been told by a judge, whom I will not name, if you will permit me not to, because I do not like to—I have been told by a judge, in talking of this matter, that I had no idea and could not understand or comprehend the tremendous pressure that was brought to bear on them to do things which they did not incline to do.

Q. Is it an infrequent or frequent occurrence for referees and receivers to be appointed on stipulation by the parties? A. My impression is that in certain classes of cases, where referees can be appointed by stipulation, they are; but there is another class of cases where infants are involved, where the judges have ruled that they will not appoint on the nomination of any party to the record. That is a class of business that——

By Mr. Moss:

Q. That is the ordinary class of business, is it not? A. It is an ordinary class of business.

Q. There are relatively few cases where referees are appointed by consent? A. Pretty much all classes where there is litigation, where there is a contest, referees are appointed by consent. The referees who are not appointed by consent are in what you may call routine proceedings, foreclosure of mortgages, for instance, and similar suits.



By Mr. O'Sullivan:

Q. But a large number of referees are appointed by consent of both parties, are they not? A. I have no doubt of it. I do not have many of them myself. Once in a while I do.

Q. You mentioned something about the assessment levied by political parties on judges after their nomination; does not that appertain as to both parties? A. I have no doubt of it. As far as I know it is equal in both parties.

Q. Do you realize that there is an enormal item of expense attached to elections, which ought to be defrayed by somebody? A. I recognize that there is an expense attaching to elections. It has got to be paid by somebody, of course, in some way.

Q. A legitimate item of expense? A. Yes, no doubt. As far as elections are concerned, if I had my way there never would be a judge elected.

Q. They would be appointed? A. They would be appointed, yes, sir.

Q. And in that way you believe you would get better judges? A. I would know the man who appointed them, and I would know all about it.

Q. Under existing conditions, would you think that would be a good method for insuring the competency of judges, by appointment? A. A great deal better than electing. Simply because you know the man who appoints, and can hold him responsible; but who can tell if you elect.

Q. You made a preliminary remark that in relation to the Tweed prosecutions; that human nature plus opportunity was very likely to lead to theft. Do you wish to be so understood? A. Yes, sir; plenty of them.

Q. Does not that formula apply now to the existing conditions in Albany as well as they do to the existing conditions in New York? A. It applies to any time and any place, so far as I know—that there is a class of men always who have not any very great moral restraint, and if you give them an opportunity they will steal. There is another class of the community who have a good deal of moral restraint, and they will not steal even if they

have a chance—which happens to be in the majority, sometimes one and sometimes the other, I do not know.

Q. You have had experience at Albany, and have studied the conditions there, have you not? A. I have had the experience of an observer. I am only interested as an observer.

Q. Has there been any more or less corruption in Albany, to your knowledge, during the years you have given thought to the matter than there has been in New York city?

The Witness—Any more corruption in Albany than in New York?

Mr. O'Sullivan—Any more or less in Albany than in New York, in the many years you have been studying this subject.

A. I could not say whether there was either more or less.

By the Chairman:

Q. Have you any knowledge on the subject at all? A. I have no knowledge other than the general reputation. I never had the slightest experience on the subject, either as corruptor or corruptee, that I am aware of.

Mr. Moss—It seems to me these questions hardly touch the inquiry.

The Chairman—I have no objection to the examination taking that line, but I agree with you that it is a little foreign to the subject-matter of investigation.

Mr. Moss—If that is the fact, let it go on.

Mr. O'Sullivan—I understood Mr. Peckham was dealing with the conditions under the Tweed régime, and the possibilities or capabilities of the present régime.

The Chairman—There is no objection, if Dr. O'Sullivan has any specific question he wants to ask in regard to Albany. I presume he refers to the Legislature, and he can ask them.

Mr. Moss—You as chairman and I have dwelt with freedom on these matters, and when I was asked to be counsel to this committee I was told that the only thing to be done was to make this investigation a success, and that nobody was to be spared,

and nobody was to be spared. Now, I say here openly that anything that affects either party, that is at all pertinent to this resolution, shall be developed, so far as I am concerned, and I am sure so far as you are concerned.

The Chairman—Yes; the committee is thoroughly with you in that respect.

Mr. Moss—If there are any accusations against any Republican leader, or senator, or assemblyman or office holder of any kind, and it touches on city administration, I for one will not stand in the way and will help it along.

The Chairman—The committee is entirely of your way of thinking.

The Witness—All I can say in regard to the question of the doctor, is that I am not drawing any distinction between one party or the other, or accusing one party more than the other; not in the least. I speak of the condition of affairs as I understand it, as a member of the community. I have no special knowledge of the corruption, and I cannot give you any aid on that point. So far as I have any personal knowledge, there is not a man in New York, or Albany, or the State, who is not as immaculate as a virgin.

HON. JOSEPH F. DALY, being duly sworn, testified as follows:

Examined by Mr. Moss:

I was a judge of the Common Pleas for a great many years, and of the Supreme Court since the consolidation of the courts. That was about three years. Up to the first of January of this year, altogether over twenty-eight years in both courts.

Q. As a judge and as a member of the bar and of the community, have you been aware, by common report, first as I ask you, of the fact that judicial candidates have been assessed large sums of money? A. Yes, sir; I have heard of that.

Q. That is a matter of general knowledge, is it not? A. General report; I have heard of it for a great many years, I think;

I do not recall the precise amount of the assessments; I heard Mr. Peckham say that from \$10,000 to \$25,000 were reported, and I have seen those figures mentioned in the newspapers where the reports have appeared that I speak of.

Q. Have not judges spoken to you about the matter of judicial assessments, as to the amount, or as to the expression of opinion concerning them? A. I think on one or two occasions. The only amount that I recall was \$10,000. That was some years ago, no opinion was expressed by judges about that matter. It was a matter of newspaper talk at the time, and that is why the discussion came up. That is why the conversation arose.

Q. As a judge as well as a member of the bar, are you aware of the fact that it has been already testified to by Mr. Croker that the positions, the employed positions at the gift of judges, and the appointment of referees by judges, are and have been controlled by political consideration? Has that come to your knowledge? A. I have heard of that.

Q. And you have known of it, have you not? A. I have known that a claim was made that appointments should be for political considerations.

Q. Will you state who made such a claim? A. Well, it was with reference to my own candidacy last fall.

Q. What was said and who said it? A. I was notified that I need not expect a renomination on the ground that I had refused to make an appointment, and had also refused to make a judicial order.

Q. Who notified you? A. Well, the notification came from Mr. Croker, whom I see here now, and I suppose he will not deny it, so it is unnecessary to state who was the medium of the communication.

Q. That was last fall, then? A. No, that was in the first part of last year. It was several months before the election.

Q. Now, will you please to say definitely what the appointment was that you did not make, and therefore you incurred the feeling of Mr. Croker antagonistic to your nomination? A. The appoint-



ment was the appointment of the chief clerk of the Court of Common Pleas.

Q. Whom did he want you to appoint? A. Mr. Daly.

Q. Michael T. Daly? A. Michael T. Daly; yes, sir.

Q. You refused to make the appointment, did you? A. It involved the dismissal of the present clerk of the court, Judge Jones, and that was an objection to it. But the principal objection was, in case there had been a vacancy, that Mr. Daly was not an experienced lawyer, and that was indispensable for the position.

Q. How long had Judge Jones held that position? A. My impression was that he had been clerk for two or three years. He succeeded Mr. Jarvis, who was clerk of the court, and who resigned, and Judge Jones, at the request of the judges of the court, took this position as clerk. He had been Chief Justice of the Superior Court, and was a lawyer of great eminence, not on account of his ability, but on account of the official position that he had held, and he accepted that position as clerk of the Common Pleas, when Mr. Jarvis resigned, at the request of the judges.

Q. There was no question, then, about the ability of Mr. Jones to fill that position, was there? A. Oh, not the slightest. He was a person of exceptional qualifications for the place.

Q. When you were asked to consent to the appointment of Mr. Daly, was any qualification of Mr. Daly mentioned that would fit him for that place, or that would make him a proper appointee? A. No; nothing was stated except that he had been a good clerk of the City Court.

Q. That was stated? A. I think it was mentioned that he had been clerk of the City Court, and the request was that he should be transferred to the Common Pleas from the City Court. That was the first suggestion.

Q. I want to ask you now about the judicial order which you refused to make. Will you please tell us about that? A. That was an order for the removal of the legal sales from the Real Estate Exchange in Liberty street to 111 Broadway. The legal sales were required to be held at the Real Estate Exchange, by a rule of the court, and it requires a majority of the judges to alter

that rule. The first I heard of the proposed alteration of the rule, and the removal of the sales, was from the counsel of the parties who opposed it, Mr. Cadwalader, who called upon me and stated that he understood that an application of that kind would be made, and that he desired a hearing for his client. I told him he certainly should have a hearing and having made that promise I declined to sign any order for the removal of the sales until the hearing had been had. I had no information or idea at that time that Mr. Croker was interested in the removal of the sales, so that my refusal to make the order was not a personal matter as regarded him, although I may state that if I had known it, it would have made no difference, for I should have made no such judicial order as that without giving the parties interested an ample opportunity to be heard fully upon the subject. It was, therefore, a matter of surprise for me to be notified from Mr. Croker that that was considered a personal affair of his and that I should not be renominated because I refused to make the order. I thought that this notification was a jest at first, and could not possibly be serious.

Q. As I understand you, the order was presented to you *ex parte*? A. Oh, yes.

Q. There was no notification to the great mass of real estate auctioneers who were selling at the Exchange in Liberty street, so far as you know? A. I understood that they were all aware of the contemplated change and that they would be——

Q. But as to the legal proceeding? A. As to the legal proceeding I am not able to say; but judge they were, because certainly the opponents of the measure were represented by counsel, Mr. Cadwalader.

Q. You have since learned that Mr. Croker was a partner of Mr. Meyer, one of the auctioneers, have you? A. That is newspaper report, too. Yes, sir; I heard of it.

Q. When did you first learn that? A. Excuse me. Very recently I saw Mr. Croker's name with Mr. Meyer's on the Exchange—on the sign at the Exchange salesrooms. I think it is on the sign there now.

Q. Do you think that the Bench should be removed from the difficulties incident to the political control of their actions, as to the appointment of referees and subordinates? A. If there is any attempted political control in that respect of the Bench, it ought to be prevented.

Q. How could that be prevented, in your judgment? A. Well, by securing independent judges, who will insist upon making appointments without reference to dictation.

Q. Do you think it is absolutely essential to leave the appointment of the referees to the judges? A. I think that it may safely be done.

Q. Do you think it is possible to create a board or a body of official referees and relieve the judges of that amount of labor? A. They would have to be appointed by somebody, and it seems to me the judges are as fit to judge of the qualifications of referees as anybody could possibly be.

Q. As a practical matter, we have heard this morning that judicial nominations, as well as all other nominations, are determined at the headquarters of Tammany Hall, and that the nominees and those who are elected are expected as a matter of party loyalty to make all their appointments, both of referees and subordinates, in line with the wishes of the organization; that being the condition of affairs in New York city, do you think that the creation of an official body of referees, would relieve the situation in any way?

The Witness—Has it been testified this morning that referees are dictated from the headquarters of a political organization?

Mr. Moss—I so understand it.

A. Well, that is confirmation of some rumors and reports; but I have been always unwilling to believe it. I cannot conceive it possible that the province of the judges should be so usurped, nor can I conceive it possible that legal proceedings can be decently conducted unless they are left free.

Mr. Moss—I think there is no question of my construction of the testimony. I do not think there can be any. I think that is the fair purport of the testimony.

The Chairman—No; I should presume that is a reasonable conclusion to draw from what has been stated here.

Q. Do you think that judges should be allowed to contribute money, prior to their election or after their election, towards the campaign expenses, or upon any pretext, to a political organization? A. I do not think they should be. The Legislature seems to have considered it proper, because there is an express permission in the statutes, in the Election Law, I think, that judges may contribute to their respective political bodies or parties.

Q. Is it your judgment that judges are subject to orders or dictation under the present system, as we have it in New York city? A. If judges can be refused a renomination for office because they have been independent, and have refused to submit to dictation, perhaps your question is answered.

Q. And that you state to be the fact, do you not? A. I have given the facts.

Q. In your own case? A. I have given facts exactly as they occurred.

Mr. Moss—I think that is all.

Mr. O'Sullivan—I would like to ask the Judge a few questions.

By Mr. O'Sullivan:

Q. You disagree with Mr. Peckham as to the desirability of their permitting judges to appoint referees, do you? A. I heard some part of the testimony, but I am not quite certain that I heard all that he said upon that subject. I do not know what system he would have substituted for the appointment by the judges. Until we hear that it would be hard to say which would be the best.

Q. But you do not believe that judges are so subject to temptation that that patronage ought to be removed from them, do you? A. I have not looked upon it as patronage. I have regarded it



as one of the judicial functions, the appointment of a fit person as referee. It does not seem to me that there can be any question of temptation in the matter, because the selection is always of a fit person. If dictation is offered, if judges are required to appoint certain persons selected by somebody else, then I say that is monstrous, and that the sooner it becomes known and the sooner the system is ended the better.

Q. Have you ever selected a referee at the dictation of any political factor, either district leader, or otherwise? A. Never. I am happy to state that no person has ever attempted to dictate to me in that matter.

Q. Have you ever known any of your associate judges to appoint a referee at the dictation of any political man, whether he be boss or anything else? A. I have never heard from them anything of the kind.

Q. Do you not regard the appointment of referee as patronage of the judges? A. No; I consider that when a judge makes that appointment he is selecting a good man for a semi-judicial office, and that he gets a good man and is careful to see that he does.

Q. There are equally good lawyers in both the political parties, practicing in this county, are they not? A. Certainly.

Q. Other things being equal as to ability, honesty and the other desirable qualities in a referee, is it very odd that a judge should select one of the same political faith as himself? A. I do not think that enters into the question of selection.

Q. But if it did, would it be an unlawful factor entering into the merits of the referee, other things being equal as to integrity? A. I do not think that the question of politics—I know as far as I am concerned that I have hardly ever known the politics of a referee whom I appointed, and I should be glad to think that that is the course generally, and so far as I know it is so. If gentlemen are appointed of the same political party, it must be on account of an association in the party which has assured the judge of the qualifications of the individual. I should imagine that was so.

Q. But if he gave a political preference, other things being equal, as to ability and integrity, would you consider that corrupt on his part? A. No; I should not think there was any corruption in that matter.

Q. What is Mr. Henry's politics? A. Democratic, a member of Tammany Hall, I understand.

Q. You have given him a very large percentage of your references, have you not? A. I should not say a very large percentage, but I have continuously appointed him from time to time.

Q. You knew his political affiliations? A. Oh, yes, very well.

Q. And you knew him for a great many years, did you not? A. Yes, sir; certainly.

Q. You and he were early associated in the Citizens' Reform movement, were you not? A. Yes, sir. We were both in the Citizens' Association.

Q. And that was for the purpose of reforming Tweed's régime, was it not? A. Well, to endeavor to do so.

Q. Who nominated you first for the judgeship? A. I was nominated by Tammany Hall in 1870, in the spring election, when the new constitution went into effect.

Q. At that time Mr. Tweed was boss, was he not? A. Mr. Tweed was considered boss; was so called. I had, however, no communication with him in the matter. In fact, I never knew him to speak to him in my life.

Q. And you never had any communication with Mr. Tweed prior to your nomination as judge? A. Never; never exchanged a word with him and never was introduced to him.

Q. Never drafted any bill for him? A. No; I drafted the dock department bill, but I think that was at the request of Mr. Sweeny.

Q. And Mr. Sweeny was intimately associated with Boss Tweed, was he not? A. I understood Mr. Sweeny was one of the political heads of the party at the time.

Q. And he was implicated in the corrupt practices of Tweed, was he not? A. His name, as you remember, was mentioned with all the attacks that was made upon the Tweed ring.

Q. Did you never have any conference with Boss Tweed in the Delavan House in Albany, prior to your nomination as judge?

A. I have stated that I never spoke to him in my life, and I can answer your specific question specifically, I have not.

Q. How do you account for the fact that while you were a prominent man in the organization, organized ostensibly to depose him and rid the city of his practices, the organization that he headed should nominate you judge? A. I can explain that very easily. The new constitution went in effect in 1870, and it was necessary to nominate a new Court of Appeals and a new Court of Common Pleas, in effect, because it was extended from three judges to six; and I was informed at the time that the intention was to exhibit an intention to put on the bench the most independent and fearless men who could be found; and I was informed that the nominations for the Common Pleas were to be Judge Robinson—Hamilton W. Robinson; Judge Van Brunt, now on the bench; Judge Larrimore, who died a few years ago; and myself; and that the object was to create a bench which would exhibit a determination to elevate the judiciary.

Q. And you were selected by Mr. Tweed as a fearless man, and for the purpose of elevating the judiciary at that time? A. I don't know about Mr. Tweed's selection.

Q. Did he not endorse you? A. The party nominated me. I was nominated by the party.

Q. You could not have been nominated without him? You know that? A. I don't know. I rather had the impression that, so far as judicial nominations were concerned, Mr. Sweeny was the controlling adviser.

Q. Has not Tweed's sponsorship always operated against you at the other election, and at this last one? Has not that very taint of Tweed interfered with your nomination at a previous time to this? A. Not that I have ever heard of.

Q. Has it not been discussed? A. No; I don't think so.

Q. Was it not openly charged against you at this time that you were a protégé of Tweed's? A. You mean at the last nomination.

Q. Yes. A. Undoubtedly; I understood that, after Tammany resolved not to nominate me for personal reasons, Mr. Croker or those who advised him, connected with him, endeavored to create a prejudice against me on the ground that I had been originally nominated by Tammany Hall——

Q. By Tweed, who was Tammany Hall at that time? A. Yes; I think so. Nothing was said about my being renominated by Tammany Hall again in 1884, which was the fact.

Q. Was not that fact discussed, that you were a protégé of Tweed at that time, and that it was really against you? A. No; I heard no discussion of the kind.

Q. Will you swear that there was no such discussion at your previous nomination to the last one?

The Witness—In 1884?

Mr. O'Sullivan—Yes.

A. I heard no discussion of that kind.

Q. Will you swear positively that there was not any? A. No; I state—you have asked me whether on those matters that matter was brought up. I think on both occasions that was mentioned. I think the first time, when I was first elected in 1870, and again in 1844, the fact that I had been nominated by Tammany Hall——

Q. And you do not regard the fact that Tweed selected you in the first instance in any way operated against you in the subsequent nominations? A. I believe Mr. Tweed did not select me. I believe if Mr. Tweed had the power he would not have selected me.

Q. What did you base that belief on? A. On the fact that I had opposed all the methods for which Mr. Tweed was supposed to stand.

Q. Did not your opposition cease the moment you were nominated? A. It did not.

Q. What did you do after your nomination to the judgeship to oppose Tweed?



The Witness—After the nomination?

Mr. O'Sullivan—Yes.

A. I think the nomination took place in the early part of May, and the election took place in May. There was nothing in those few days that was done. But I wish to state that I had heard of this intention of making this new bench of the Common Pleas sometime before that, during the time that the Legislature was in session, and I continued to perform my duty as a member of the Citizens' Association, and as its attorney in opposing bills in the Legislature, notwithstanding I had heard that. And I understood that it gave great offense, too—that I was still opposing the bills introduced by Mr. Tweed.

Q. What did Mr. Henry ever do in conformity with his reform notions after your nomination? A. I don't know anything, in the two or three weeks you mention.

Q. Mr. Henry is the gentleman you have given the large volume of references to, is he not? A. I have not stated that.

Q. It is a fact, is it not? A. I stated that I had appointed him continuously.

Q. What? A. Continuously. I stated I had appointed him. Whenever I had appointments to make I had always regarded him.

Q. You mentioned something in relation to Michael T. Daly—that he was urged on you for nomination as clerk of the Court of Common Pleas, I think, did you not? A. Yes, sir.

Q. What position did Mr. Jarvis ever hold in that court? A. I think he was clerk of the court from about 1855 until the time Judge Jones was appointed in 1890.

Q. He was the clerk under you? A. During the time I was there he was clerk of the court, and before me.

Q. You say he resigned, or something? A. Yes, sir.

Q. What were the facts concerning his resignation? A. Mr. Jarvis had been called to account for the disposition of the estate of an East Indian named Kolah, of which estate he had been appointed committee, and charges were made that that estate

had become dissipated while in his hands, and Mr. Jarvis resigned his position as clerk of the court.

Q. Mr. Jarvis was dishonest, was he not? Was not that the charge, of dishonesty? A. I tell you the charge was made against him that the estate had become depleted while it was in his hands. I understood him to claim it was by unfortunate investments.

Q. The charges against him were practically those of dishonesty, were they not? A. It was exactly as I have told you.

The Chairman—How is it material.

Mr. O'Sullivan—Judge Daly has said——

The Witness—Why not let Mr. O'Sullivan continue.

Mr. Moss—I have not objected because I think it is only fair to all sides to let Judge Daly answer him.

Mr. O'Sullivan—I will not ask any more questions.

The Witness—Go on, Mr. O'Sullivan.

Q. I would like to put this question. Mr. Jarvis was practically charged with dishonesty or misappropriation, or something in the nature of dishonesty, was he not? A. I have given the charge against him.

Q. He was certainly an unfit man for clerk of that court, was he not? A. I should think so, if he could not take better care than that of an estate committed to his hands.

Q. Had you ever known of Michael T. Daly's being in any way dishonest? A. No.

Q. Had you ever known of any fact that operated to show that he was incompetent as a clerk? A. No; well, yes, I understood that he was not a lawyer.

Q. And yet he performed the duties of clerk of the city court? A. The city court; yes, sir.

Q. Have you ever heard anything to the contrary that he was an efficient clerk? A. I have heard nothing at all about his performance of the duties of that office.

Q. Here on the one side we have Michael T. Daly, a man whose honesty and competency have been assured. Was it very irra-

tional to suggest him as a fit successor to a dishonest man, no matter how much ability he might have? Was that very irrational? A. Well, it was rather irrational to suggest him as the clerk of a court, when there was no vacancy in the office. Judge Jones was then clerk.

Q. You said something about the assessment of judges. What assessment did you pay when Tweed nominated you? A. I was informed by Mr. Sweeny at that time that the expenses of the election would be very heavy, and that it would be necessary to pay, I think, \$3,500, and he apologized for the size of the assessment.

Q. How much did you pay the second time you were nominated for the judgeship? A. I think on the second time that I was required to make contributions to different branches. There were county organizations and so on, and that there were different amounts raised. I recall, I think, the payment of \$2,000 on one occasion, and \$5,000 on another.

Q. How many on the first occasion? A. \$2,000, I think.

Q. That was \$7,000 altogether? A. Yes, sir, and I understand there was more than that contributed by different persons who raised the funds for the election.

Q. What percentage of that money was used unlawfully for your election? A. I do not know how any of it was used. There was no requirement at that time of the filing of certificates, as there is now, by candidates.

Q. I take it that you assumed that none of it was used unlawfully? A. Well, I suppose so. I would not possibly assume an unlawful use of anything. That was an exceedingly heated election. There were two different Democratic parties in the field, and there was great rivalry between them.

Q. Do you understand that the assessments of judges obtain in both parties? A. Yes, sir; so I understand. I understand that the Legislature has in effect permitted it by the enactment to which I referred.

Q. You understand that there are legitimate expenses connected with campaign work that have to be defrayed? A. Yes, sir.

Q. And you do not see anything unlawful in asking an assessment of a judge to pay the expenses of running his campaign, do you? A. If you ask me whether it is unlawful, I should say certainly not, after the replies which I have made. If I am asked for an opinion upon it, that is another matter.

Q. The Bar Association refused to endorse your nomination when it first came before them, did it not? A. No, sir; on the contrary.

Q. Were your's and Judge Cohen's nominations asked to be confirmed by the Bar Association, and were they not rejected? A. No.

Q. And subsequently they were endorsed? A. No.

Q. Do you know whether or not that was so? A. I know it is not so, according to the reports. I was not present at the meeting, but according to the reports which I read——

Mr. O'Sullivan—I think you are mistaken. However, we will get at that later.

The Witness—Oh, no. I think that your mistake comes from this: That the Bar Association did not wish to be in the position, when they were asking both parties to renominate judges of experience on the bench,—to be in the position of dictating to the parties; and therefore there was an express omission of the names of particular candidates; but the desire of the association was pretty plainly evident all through the proceedings.

Q. But they overcame that reluctance to dictate to the parties by actually putting you and Judge Cohen in nomination against the wishes of the parties, did they not? A. No, I think not. They asked each party to nominate Judge Cohen and myself. They made a specific request for our nomination, although it was not adopted in the resolution to which you refer. The committee, however, made the specific request.

Q. And you ran in the last campaign upon your own merits, pure and simple, did you not? A. I ran on the Republican ticket.

Q. And on your own merit as a judge? A. I hope so.



Q. And you were defeated? A. Certainly, I had no other claim to the support of my constituents except my merits as a judge.

Q. You were defeated on that claim? A. I was defeated by a very large vote, which I think if it had been better instructed would never have defeated me.

Mr. Moss—Mr. Croker asked me to ask you a question. He thought there was not enough coming out in cross-examination, and after a moment or two of deliberation I have concluded he was entitled to have the question put. He wants to know if you did not come to him personally and ask him to send you to the Constitutional Convention?

The Witness—I went to Mr. Croker and informed him that it had been the custom in both political parties to send the Chief Justices of the respective courts—to elect the Chief Justices of the respective courts to the Constitutional Convention; and I came to state to him that that had been the custom and to state that I hoped it would prevail; that grave questions concerning the consolidation of the courts were coming up, and I thought the courts should be represented. He stated to me that he had nothing to do with the nominations of candidates for the Constitutional Convention, and that he left that entirely to the leaders, and that it was useless to see him on the subject.

Q. Why did you go to him? A. As the head of the Democratic party.

Q. And he referred you to the leaders? A. Well, he did not tell me to go to them. He said he left that matter to them.

Q. You went to Tammany Hall, did you? A. Oh, yes, certainly.

Q. I am asking you the questions as put to me. Then from your knowledge of affairs which led you to go to Tammany Hall and to Mr. Croker, and from Mr. Croker's reference of the matter to the leaders, it appears then to us that this important matter of sending delegates to a constitutional convention is fixed up in the councils of the political organizations. Is that as you understand it? A. I should suppose that every nomination to an elec-

tive office is discussed in the councils of the organizations, and that the proper thing to do is to go and see the head of the organization, if you are a candidate or if you think you ought to be a candidate, or there is any reason for it. I did not know how far Mr. Croker might know what the custom had been in constitutional conventions, for they are not held more than four times in a century, and I went to tell him what had been done in the constitutional convention of 1821, when the chancellor was sent to the constitutional convention by his own party; what had been done in the constitutional convention of 1865 or 1866, when Judge Ingraham, Judge Sedgwick, Chief Justice Carl P. Daly, my predecessor in the Common Pleas, had all been elected by the Democratic party, by Tammany Hall, to the constitutional conventions and I desired to state to him what the custom had been.

HON. ROGER A. PRYOR, being duly sworn, testified as follows:

Examined by Mr. Moss:

On the 14th of October, 1891, or the 15th of October, 1891, I contributed—I being then nominated for the Common Pleas Bench—I contributed \$10,000; and also \$500 to the County Democracy. It seems that Mr. Peter Mitchell, a good friend of mine, had spontaneously paid \$500 to that organization, and I heard of it and I felt it my duty to reimburse him. That was my experience.

Q. Was it suggested to you that you should contribute that large sum of money? A. Yes; oh! decidedly.

Q. Do you feel willing to state who requested you to do so? A. I have no hesitation whatever.

Q. Will you kindly do so? A. Mr. Richard Croker.

Q. And to whom was the money given? A. The money was given—on the 14th day of October, 1891, I drew a check for \$10,000, payable to the order of Richard Croker, chairman of the finance committee of Tammany Hall. On the 15th day of October, 1891, the next day, that check was returned to me by Mr. Michael

—brought to me by Mr. Michael T. Daly, who said that he preferred to have the check payable to bearer; that he himself would collect it and would turn the money into Tammany Hall, I think he said to Mr. McQuade, who probably, it is my impression——

Q. He is the treasurer? A. The treasurer; that he did so collect it is evident by the fact that his endorsement is on the back of the check—Mr. Daly. All this I have stated in my sworn affidavit, sworn certificate, filed, after the election. I mean the substance of this; not all of it.

Q. Do you not think that the judiciary would be elevated in the eyes of the people and made more independent in the performance of their duties if they were relieved by law from the payment of political assessments? A. Decidedly.

Q. That is one of the—— A. I am on record on that opinion long ago.

Q. That is one of the most needed reforms that we have? A. Well, I don't know about that. There are a good many.

Q. I suppose there are a good many and it is hard to tell which we need the most; but that is one of them? A. I think so.

Q. One other question is suggested to me. Does not the present system of the selection of judicial candidates by party leaders, and the implied requirement that they should be in line with the party, put the judges in uncomfortable and difficult positions at times? A. I have never been under any discomfort from them. No member of Tammany Hall, from Mr. Croker down, has ever suggested to me any decision or how I should decide.

Q. As to the appointment of subordinates and referees do not requests come? A. I have had requests from a great many sources. I do not recall that I have had any from Mr. Croker, at present.

Mr. Moss—I think we will not inquire further into that line.

The Witness—Nor do I appoint many Tammany men referees, you remember.

Mr. Moss—I remember, Judge.

By Mr. O'Sullivan:

Q. You do not regard the privilege that a judge has of appointing referees a very great source of temptation, do you? A. It is a most annoying circumstance connected with the judiciary office, to me. The only trouble I have ever had, personally, is in the dispensation of the little patronage that I have there. From the importunities of young lawyers struggling for an existence and otherwise. I repeat, it was disagreeable.

Q. But do you regard the importunities of men who desire to get a lucrative appointment a source of corruption to judges? A. No. Oh, no; not at all. I have felt uncomfortable because I could not appoint all. I had to disappoint so many.

Q. You have never appointed a referee corruptly, have you? A. Why, of course not. What do you mean by corruptly?

Q. It has been discussed a little this morning by the two preceding gentlemen, and that was that it was regarded as a corrupt appointment when political pressure was brought to bear? A. Never. I have not appointed corruptly. I have appointed none of my relatives and nobody connected with me; studiously abstained from it.

Q. There are equally eminent members of the bar belonging to both political parties, are there not? A. Oh, yes. I don't know but the Republicans have the advantage of us in that respect.

Q. But other things being equal, you see no reason why a judge should not give the preference to one of his own political creed, do you? A. On the contrary I think he should give the preference, other things being equal.

By Mr. Moss:

Q. He should give the preference to the other side? A. To his own side; other things being equal. Oh, I am a Democrat unquestionably.

By Mr. O'Sullivan:

Q. You mentioned an assessment of \$10,000? A. I did not call it an assessment. Mr. Moss did.



Q. I mean, you contributed that much to your campaign expenses? A. Well, I may add that of course that was a general election. I recall that Mr. Flower ran for Governor then, and this \$10,000 was not only for my own election but was also a contribution to the general canvass of my party. I had been in the habit before that always of contributing according to my means. This \$10,000 embraced it all.

Q. When you gave that \$10,000 you did not see anything unlawful or wrong in doing it, and helping your party to that extent, did you? A. Nothing in the world in contributing to the success of my party.

Q. You understand that on this island alone there are over 1,200 election districts, do you not? A. Yes, sir. Oh, I was told by Mr. Croker that—he made some general statement of how this money was to go, and I recall now, since you suggest it, that he did name—I think he said 1,300 election districts, I may be mistaken. And three or five watchers at each election district, each one of whom got five dollars; and then advertising meetings, and the general impulse imparted to the canvass requires money.

Q. When you are asked to appoint a referee you do not consider it anything unlawful if a man should suggest one in preference to another, unless you act upon that suggestion? A. Certainly not, Mr. O'Sullivan.

By Mr. Moss:

Q. Just this question. When a man through any reason contributes money in advance of his election, to be used in the expenses of the election, there can be no doubt about it that he is paying money for his election, can there? A. Well, in that sense, certainly he is.

Q. There can be no doubt, then, that to an extent he is investing his own money in that which is intended to return for his investment a position with a salary? A. Yes; in a sense.

Q. And that being the inevitable reasoning of the case, is it not degrading to the judiciary, to the judicial office, that it should

be put in that embarrassing position before the people? A. I have already said to you that I do not think judges should be assessed.

AFTER RECESS—2 O'CLOCK P. M.

RICHARD V. HARNETT, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am a real estate auctioneer, and have been in business in the real estate line and as real estate auctioneer in this city for many years. I have had a fair business in judicial sales in times past, I suppose about as much as other men; I remember when those sales were conducted in the salesroom on Liberty street, that was under an order of the judges of this department. They designated that as the place for holding sales, transferred the sales from 111 Broadway to Liberty street. That salesroom had been specially constructed with reference to the comfort and convenience of people and the advantage of sales. There is a difference in the height of the ceiling; in the height of the room, between Liberty street and 111 Broadway. The room on Liberty street had superior accommodations to the one on Broadway we thought, I thought so, at least. I remember when an order was made by the judges, transferring the place for legal sales to 111 Broadway again, but I could not say about the date. I think it was in 1892. Prior to that order Mr. Peter F. Meyer was a member of the firm of A. H. Muller & Son, engaged in real estate sales and auctions. I remember when Mr. Meyer and Mr. Croker went into partnership in that business, only as rumor had it, that is all. I have seen the name on the door. I have seen it at 111 Broadway. It seems to be the impression in the business that they are partners.

Q. During the early part of 1892, while the sales were being held at 59 Liberty street, were they distributed between these firms: William Connolly, D. P. Ingraham & Co., R. V. Harnett & Co., A. H. Muller & Son, Smith & Ryan, Bryan L. Connolly and other auctioneers? A. They were all who have

stands at the Real Estate Exchange in Liberty street, and made legal sales.

Q. And was not the business fairly divided between them? A. They all had business.

Q. Was there any one of those firms that had a very much larger proportion of business than any other? A. That I could not say.

Q. Will you look over those figures and see if they refresh your recollection in any way? A. Of course, I can't carry in my mind what occurred in 1892 as to the number of sales, but I suppose maybe that is correct.

Q. I am not asking you for an exact figuration upon that, but is it not a fact that there was no disproportion in the business as between the different auctioneers at that time? A. Each auctioneer, I suppose, was trying to get all the business he could.

Q. There was a fair competition, then? Is that right? A. There tried to be.

Q. During the last two years, 1897 and 1898, at the auctions at 111 Broadway, is there any firm of auctioneers that has had the great majority of the legal sales? A. Well, I am so busy in attending to my own business that I don't—

Q. You have discussed this thing. You know what I am talking about and have discussed it yourself. It is a plain question that I am asking you. During these two years, is there not a firm which has received the great majority of the judicial sales? A. Well, as I just stated, I have got about all I can do to attend to my own business and am trying to attend to that.

Q. You are attending to your own business? How many judicial sales have you had during 1898? A. I could not tell the number.

Q. Have you had many? A. I have had a fair number of sales.

Q. Do you remember having a conversation with Mr. Laimbeer about this matter two or three days ago, when he called on you? A. I remember; yes, sir.

Q. Did you not say that the judicial sales were running to Mr. Meyer's office in the proportion of about two-thirds? A. I don't think I made that statement. Two-thirds?

Q. What did you say? A. I may have said that Mr. Meyer was getting a very large proportion of the legal sales.

Q. Did you not complain of that to Mr. Laimbeer? A. Well; I may have intimated something of that kind.

Q. But did you not? It was only two or three days ago? A. It is possible that I did.

Q. Did you not also complain to Mr. Brague about it? And make substantially the same statement? A. Well, I no doubt did say something.

Q. Have you not complained to me about it in the past? A. I should not be surprised.

Q. Why did you complain to me and to Mr. Brague and to Mr. Laimbeer about Mr. Meyer and his firm getting the largest proportion of these judicial sales? Why did you complain? A. Ordinary talk about business.

Q. Ordinary talk about business? And because it was the fact? Is not that so? A. They may have more energy than some of the others.

Q. I am not asking whether they have more energy or more blood or more power or more influence or what. Is it not the fact, I say? A. I think it is.

Q. And you thought it sufficiently so to complain about it, did you not? A. I might have spoken of it in conversation.

Q. How are these sales taken to auctioneers? How are the auctioneers selected? In what way? A. Well, by the referee or the attorneys.

Q. The referee has the say, has he not? A. As a rule, yes.

Q. He is appointed to sell the property? A. Yes, sir.

Q. And he is the officer of the court? A. Yes, sir.

Q. And he selects the auctioneer? A. He does.

Q. And what you have complained of was that in the majority of cases Peter F. Meyer was selected? Is not that so? A. I don't



know that I ever mentioned Mr. Meyer especially. I may have said that they were getting a great many—that they were getting a great many of the legal sales.

Q. Yes, and the majority of them? A. And some that naturally came to me through long acquaintance and doing business for people.

Q. You found that men who had come to you in the past, friends of yours, persons who naturally come because of long business acquaintance, were going to Mr. Meyer, did you not? That is just what you have said, I think? A. Well, that is so.

Q. And you stated why they were going to Mr. Meyer and leaving you. What did you say about that? A. Well, I don't remember exactly what I said.

Q. Did you not say it was because Mr. Croker was a partner of Mr. Meyer's? A. I might have said so.

Q. And is not that the fact? A. I think it has a great deal of influence.

Mr. Moss—That has a great deal of influence, indeed. That will do.

By Mr. O'Sullivan:

Q. Just one or two questions. You are in business rivalry with Mr. Meyer? You are rivals in business, each trying to get all he can of the business? A. Yes, sir.

Q. And you do not wish to be understood as making a complaint to Mr. Moss in relation to the percentage of business which Mr. Meyer was getting? A. I don't know that I did.

Q. You have all the business that you can attend to, you just said in answer to a question of Mr. Moss's, and it gives you enough to do to mind your own business; I think that is what you answered him, is it not? A. I did not say I had all the business I could attend to, but I said it kept me busy attending to my own business.

Q. And you had enough to keep you busy minding your own business? A. I did not intend to say that. I try to keep busy.

Q. But you have enough business to keep you busy in attending to it? A. I try to.

By Mr. Moss:

Q. And has not the volume of your business perceptibly decreased since Mr. Croker and Mr. Meyer have been actively selling property through their office at 111 Broadway? I am speaking now of judicial sales? A. My office does not get as many judicial sales. We do not get as many judicial sales as we used to.

By Mr. O'Sullivan:

Q. Did you not have a monopoly of it at one time? A. No, sir; I don't think I ever did.

Q. Did you not have such a large percentage of these sales at one time that it was practically a monopoly? A. No, sir. No; the list that Mr. Moss exhibited there shows that Mr. Connolly had the greatest number.

By Mr. Moss:

Q. Look at that list again and see if you recollect that list? Was not that made up in your office? A. No, sir.

Q. Was it not made up by someone at your suggestion? A. Mr. Laimbeer came to my office to get some information about sales and I told him he could go in the Exchange and get the information.

Q. And this was got from the Exchange? A. That is all I had to do with it.

Q. Are those proportions as stated there about as you recollect in 1892? I ask that with reference to the question about your having a monopoly? A. I suppose that must be correct.

Q. According to these figures William Connolly had sixty-five parcels, Ingraham & Company fifty-two, Harnett & Company forty-seven, A. H. Miller & Son fourteen, Smith & Ryan twenty-five, Bryan E. Connolly thirty-eight, and all other auctioneers forty-eight. That would make Mr. Connolly the leading man, as you stated from your recollection a little while ago, and it

would make A. H. Muller & Son of which Meyer was a member the smallest in number of judicial sales. Is that the way you recollect it? A. I could not say positively.

Mr. Moss—We will offer these later, with proof; and I will say that we show that in 1897 Peter F. Meyer & Company had 267 sales and in 1898 242; while in 1896 they had only ninety-seven, in 1895 ninety-four, in 1894 eighty-four, and in 1893 sixty-five.

By Mr. O'Sullivan:

Q. Is it not a matter of fact that there was a great many more foreclosures in some years than in others? A. Yes, sir.

Q. The figures that you were not sure about and would show the relative business capacities of these different firms—to what year did you understand that related? A. Eighteen hundred and ninety-two, I think.

Q. And things have progressed favorably towards Mr. Meyer since 1892; is not that so? A. Yes, sir; that is so.

Q. And he had a large volume of business in 1897? A. Yes.

Q. Who was mayor in 1897? A. My impression is it was William L. Strong.

WILLIAM A. BALLANTINE, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am the secretary of the Consolidated Ice Company with offices at Twenty-third street and Lexington avenue. Charles W. Morse is the president. He lives at 40 West Seventieth street. The treasurer is Harry F. Morse. I don't know where he lives; I think he lives in the city. The corporation was organized some time in 1895. It is incorporated in the state of Maine. The capital stock is \$10,000,000.

Q. Your company has taken unto itself the following companies, as I am informed: The Consumers, the New York City, the Mutual Benefit, the National, the Knickerbocker, the Yonkers

City, the Ridgewood? A. You have stated it correctly with this explanation: We purchased the property.

Q. Well, they have the property? That is what I mean? A. Of course, in some instances only a part of the property. It is not correct that we have also taken in Tilly & Littlefield, Thomas Alden, A. L. Thompson, Edwards & Merrill, N. B. Schutt, Fitzgerald Brothers and a large number of other individual ice dealers; we have not bought their property; not one if those individual properties have been bought in or consolidated into the ice company; our stock book is not in my custody; it is in the custody of the treasurer. I really don't know where it is. I am acquainted with very few of the stockholders. I have to send out notices once a year, they go out for the annual meeting. I do not send out those notices; they go out—there is a transfer clerk attends to that. I direct that my name is signed to the notices of annual meetings. I don't know that Richard Croker is a stockholder. I don't know that Frank Croker is at all. I don't know that Richard Croker is at all. I hardly ever see any of the stockholders. I don't attend to sending the notices at all. It is done through a clerk. I merely have the form prepared and have it printed and the stock clerk attends to that; the stock transfer clerk. The transfer clerk is Alfred Nelson. I don't know Alfred Nelson's residence at all. He is at the office every day, pretty nearly, at Twenty-third street. John F. Carroll is not a stockholder that I know of. I don't know that he is at all. I don't know that Peter F. Meyer is a stockholder. I don't know that John B. Sexton is a stockholder. I don't know who had charge of the incorporation of our company. That was done, Mr. Moss, before my entry in there. I was with the Knickerbocker Company. I was introduced into the Consolidated when the Knickerbocker was taken in. That was some time in 1897 or 1896—although I remained with the Knickerbocker after they were taken in. Our company has various piers that are leased through the Dock Department; a few. We have one at Forty-sixth street, North River. I can't say exactly, but I think it is \$2,700 or \$3,000 rental that we pay; we have the whole pier; and



we keep it in repair, and with all the covenants usually attaching to a lease from the department; \$2,700 or \$3,000 is the rental which we pay for that pier here, that is my impression. We have a pier at Ninety-first street and East River, the whole pier. My impression is that the rental is the same. It is not in my department. I don't keep familiar with the figures exactly. It would be in the auditor's department. The gentleman in charge is Mr. George Fleming. He is there pretty nearly every day. That is all the piers we have. The one on the Wallabout canal was terminated, very suddenly, as far as my information went, some time this spring, I think. I believe it was to be taken up. We had both of those docks in New York city at that time. We paid for that pier on the Wallabout \$2,500, about that, I think. The old Ridgeway company paid for its accommodations, I think, that or probably a little more. They had large wharfage to pay in addition. I don't know of my own knowledge as to that. I don't know of anyone of the Department of Docks especially that attends to these leases. I have never talked with Mr. Meyer about the leases. I don't think I have ever seen him. I have not talked with Mr. Murphy about the dock leases. I don't think I have ever seen him. Mr. Cram I have seen, but I don't think I ever talked with him about leases. Mr. Burke I never had any occasion to say anything to him about it. That is because it was out of my department. We supply the Commissioners of Charities and Corrections with ice. I don't know whether it is all of their ice or not. They advertise for proposals, something about 3,000 tons more or less, at their option, and they take from time to time in cargo lots and weigh it out. I don't know what the tonnage would be. It might be less than 3,000 or a little more. We got the contract for that this year, I think it was early in the season. We have had it for years. The Knickerbocker had it for years before. The Knickerbocker had it for years before and now the Consolidated has it. We always had it under a bid, though. The price we are getting for it comes under our sales department. I can give you an answer. I think it is \$3.15 a ton, weighed out,

as near as I can tell. I never heard of lower bids than that. Our applications or proposals were put in regularly. All I know is that we got the bid. The retail branch of the business may be supplying some of the public offices, but I know that not of my own knowledge at all. Mr. Reeves has charge of the retail branch. He is the selling agent, L. A. Reeve, at Twenty-third street and Lexington avenue.

JOHN F. CARROLL, being duly sworn, testified as follows:

Examined by Mr. Moss:

Q. Mr. Croker this morning described you as his assistant, as the head of the Democratic party in the city of New York. Is that correct.

Mr. Croker—I beg pardon. You said assistant.

A. If he described it, it is correct.

Mr. Moss—Well, I will not have any quarrel with you.

The Witness—Anything he says goes.

Q. It is true, is it not? A. Yes, sir.

Q. Anything he says goes? A. Yes, sir, with me.

Q. Do you know of any regular member of the party that is in any different relation to Mr. Croker than that? A. I hope not.

Q. His word goes with them all, does it not? A. Generally.

Q. Whether they are in office or out of office? A. Pretty generally.

Q. That is what you intend in the management of your organization, do you not—discipline? A. Individually.

Q. Discipline? You and Mr. Croker? A. Yes, sir.

Q. They must obey, must they not? A. They don't usually last, if they don't.

Q. That means that if an official disobeys he is likely to be removed? A. We are not talking about officials.

Q. That means that if an official disobeys he is likely to be removed from the party, at any rate, does it not? A. Well, if he misbehaves himself in his official capacity.

Q. For instance, like Mr. Reddington, who voted upon a certain bill contrary to the wishes of the organization? A. I don't know anything about that.

Q. You do not know anything about that? A. No.

Q. You held a position in the Court of General Sessions before you assumed this relation to Mr. Croker, did you not? A. Yes, sir.

Q. He was then the leader of the organization? A. Yes.

Q. And you respected his desires then, as you do now, did you not? A. Yes, sir.

Q. And the patronage that was under your distribution went in accordance with his desires, did it not? A. Unfortunately I had no patronage to give them.

Q. So far as you could control it or suggest? Yes.

Q. You tried to make that go in accordance with his express wishes? A. Yes, sir.

Q. Now, in your position as assistant or deputy or whatever it may be, when questions or patronage come up—that is, the appointment of subordinates in the different departments—you, as the deputy or assistant, endeavor to secure the result that Mr. Croker desires, do you not? A. Yes.

Q. So as a result of that, the employes and subordinates in these departments are all acceptable to the organization and the leader of the organization? A. Providing we can carry it out.

Q. And they know that they hold their position subject to the approval of the organization and of the leader, do they not? A. Certainly.

Q. And they know that if they do not carry out the desires of the organization and of the leader they are liable to have trouble in their party, or wherever it can be properly made for them, do they not? A. Well, not always.

Q. Where is there any kicker, as we will call him, who has not had a difficult time of it? A. I can't recall any.

Q. You can't recall any kicker, can you? A. No.

Q. The party has been solid, has it not? A. Getting very scarce—kickers.

Q. I suppose you attend at the Democratic Club practically every evening? A. No, sir.

Q. Very frequently, though? A. Very frequently. As often as I can.

Q. And are there in consultation with Mr. Croker and other leaders in the party? A. If he chooses to consult with me, I am.

Q. But if he does not choose to consult with you about a matter of party discipline, you, being the deputy, have charge of it yourself? A. That is it exactly.

Q. And when you do not execute it correctly or in a way that is satisfactory to him, he tells you, does he not? A. He has not told me yet.

Q. You would expect to be called down, would you not? A. Decidedly. That is the reason I am careful.

Q. You are subordinate to him, are you not? A. Yes, sir.

Q. And thus far you have been able to run along without having his disapproval? A. Smooth as glass.

Q. But if you should do something, which in his judgment, was not best for the party, you would expect to be called down, would you not? A. I would, yes, sir.

Q. You find him intelligent on those things, do you not? A. Very.

Q. You find him able to hold the party together, both in the city and in the State, do you not? A. He has, very successfully, I think.

Q. You look upon it as Mr. Croker expressed himself this morning, I presume, that all officers who are elected as candidates of Tammany Hall, from judicial officers down, owe a duty to the party which elected them? A. Yes, sir.

Q. And it is their duty to make all appointments and manage all patronage with reference to that duty? A. Certainly. That is what we expect.



Q. They hold their positions—or their obligation is to the party that elected them, is it not? A. First to the people then to the party.

Q. Is it not first to the party and then to the people? A. No, no.

Q. How is that? You do not expect them to act with reference to the Republicans, do you? A. Oh, no. No quarters for Republicans.

Q. The people are composed principally of Republicans and Democrats, are they not? A. Not many Republicans around here in this city.

Q. But so far as they are anything else than Democrats, they are mostly Republicans, are they not? A. Yes, sir.

Q. Democrats and Republicans? A. Yes, sir.

Q. Now, if they are not to consider the interests of Republicans and are to consider the interests of Democrats, how do you say they are to consider the interests of all the people first? A. Well, I refer, of course, to those that are holding office. But the idea of the organization is that the men must perform their duty first to the people, in the offices they hold.

Q. That is, they must be honest? A. Be honest, yes, sir.

Q. And they must attend to their duties? A. Yes, sir.

Q. But when it comes to the question of policy, the appointment of subordinates and the making of arrangements, then they are to consider first the organization that elected them? A. Certainly. That is it.

Q. Such as the appointment of referees by the judges? That is expected to be in line with the organization, is it not? It was so stated by Mr. Croker this morning? A. Well, I have had very little experience in that line. I can't talk about that.

Q. But as a deputy leader having control of the situation you would expect to do it? A. I tell you what I would like to do I would like to name every referee they appoint and I would not name any but a Tammany Democrat.

Q. You would like to name all referees? A. That is what I would like to do.

Q. And you would not put on that list anything but Tammany Hall men? A. Tammany Hall men.

Q. Have you recommended some referees? A. Yes, sir.

Q. And have they not been appointed? A. Not all.

Q. Will you tell me some names that have not been appointed.  
A. I cannot recall them.

Mr. Moss—I would be very glad to have you recollect them now, or by-and-by, if you think of it.

The Witness—All right.

Q. To what judges have you sent such requests or recommendations? A. I can't remember.

Q. Judges in the Supreme Court? A. I don't remember.

Q. Those are the only judges that appoint referees, are they not? A. Just as you say.

Q. Whoever the judges are that appoint referees, you have made your recommendations, and generally they have been carried out? That is the way out of it is it not? A. Not exactly, no.

Q. How is it wrong? A. I would not hesitate to recommend any reputable lawyer to any judge I knew.

Q. Any reputable lawyer who was a Republican? A. No, no; Democrat.

Q. Do you really think that judges and referees who pass upon the rights of the people should be subordinate for their selection to a political organization? A. They should not ask the political—or politicians, to recommend them, if they don't want to give them whatever patronage they have.

Q. That is, the judicial candidates should not ask the politicians? A. No, I mean the lawyers that ask.

Q. Do the men that want to be judges ask the leaders of the party to nominate them? A. None of them ever asked me.

Q. They ask Mr. Croker, do they not? A. I don't know anything about it.

Q. He has not talked to you about that? A. Not yet.

Q. You resigned your position as clerk of the Court of General Sessions, to take up this business with Mr. Croker, did you not?

A. Yes, sir.

Q. It is a business, is it not? A. Yes, sir.

Q. It has become a practical business? A. Yes, sir.

Q. The business of politics? A. Yes, sir.

Q. And you can make your living out of it, can you not? A. Well, I don't know about that.

Q. You are not starving, are you? A. Do I look like it?  
[Laughter.]

The Chairman—Gentlemen, we must have order here or this room will be cleared.

Q. What salary were you getting when you gave it up? A. Seven thousand five hundred dollars a year.

Q. You left a salary of \$7,500 a year to take this position? Were you not getting other money from some other sources when you were clerk? A. Yes, sir.

Q. What were they?

The Witness—What do you mean, what were they?

Mr. Moss—What were your sources of income when you were clerk, besides your salary?

A. Well, I don't remember exactly.

Q. There were other sources? A. Yes, sir.

Q. Which produced an income considerably in excess of \$7,500? A. Yes, sir.

Q. And they were legitimate, were they? A. Nothing ever passed my hands but what was legitimate.

Q. You gave up all that business to become the deputy or assistant of Mr. Croker? A. Yes, sir.

Q. You say you are not starving at it. Will you tell me how you get your money? Does Mr. Croker pay you a salary? A. No, sir.

Q. Does the Democratic organization pay you a salary? A. No, sir.

Q. Where do you get this money now that your salary is stopped? A. I think that is a personal matter.

Mr. Moss—I know it is.

The Witness—Then I will decline to answer.

Mr. Moss—I will not ask you for any contempt proceedings now; I think Mr. Carroll and I will get along all right.

The Witness—All right.

Q. You have some stock, have you not? A. That is a personal matter.

Q. Have you any stock? A. That is a personal matter, Mr. Moss.

Q. Did Mr. Croker ever give you any stock? A. Not up to date.

Q. Did anybody give you stock in any company in which Mr. Croker is a stockholder? A. Not up to date.

Q. Have you ever had any stock of the Consolidated Ice Company? A. That is a personal matter. I decline to answer.

Mr. Moss—Mr. Chairman, you will please to direct the witness to answer that question.

The Chairman—In our view the line of examination of Mr. Carroll would seem to be relevant to the matter under investigation, and it seems to me that it is a proper question for the witness to answer.

Mr. Moss—I will ask a preliminary question.

Q. Will the answer to that question tend to incriminate you? A. No, sir.

Q. Or will it tend to convict you of a crime? A. No.

Q. Will it tend to degrade you? A. No, sir.

Mr. Moss—Then I ask you to direct him to answer it. We will get some of these people locked up for contempt before we get through.

The Chairman—I think I shall have to ask you to answer the question.

The Witness—Well, I am very sorry, but I will have to decline.



Q. Will you deny that you have been a stockholder in the Consolidated Ice Company? A. I decline to answer the question.

Q. Are you a partner of James Mahoney, and interested in pool-rooms in the city of New York? A. No, sir.

Q. Why do you not decline to answer that question? A. Because I feel like answering it. That is all.

Mr. Moss—Mr. Chairman, you will see that the declination of the witness is not upon any moral or proper ground.

The Chairman—Yes.

The Chairman—I want to say to you now, Mr. Carroll, that the Assembly and this committee, under the authority vested in it pursuant to the resolution of the Assembly, directs you to answer the question that Mr. Moss has propounded. I will ask the stenographer to read the question again.

The Stenographer (reading)—Have you ever had any stock of the Consolidated Ice Company?

A. I decline to answer on the ground that that is a personal matter, and by advice of counsel.

Q. By advice of counsel? A. Yes, sir.

Q. Who has advised you about that matter? What counsel? A. Well, Dr. O'Sullivan.

Q. How did Dr. O'Sullivan know I was going to ask you that question? A. Not personal matters.

Mr. Moss—He has not been within fifteen feet of you.

The Witness—Not personal matters.

Q. Why did you not decline to answer about James Mahoney? Did he advise you about that? A. No, nobody ever advised me about that, but that was so ridiculous that I thought I would knock that out right away.

Mr. Moss—It may not be so ridiculous as you think.

The witness—That is simply ridiculous. You know that is so, too.

Q. Is the other question ridiculous? The Ice Company question? A. No.

Q. Then why do you not answer it because it is not ridiculous? A. I think it is a personal matter. I don't think you have any right to pry into my personal affairs. What have I done to give you any authority to go and inquire into my private affairs? Am I charged with anything?

Mr. Moss—This is not a court. This is an inquiry. You are not being tried for any crime. You are brought here for information and you refuse to give the information for reasons well known to yourself.

The Witness—For twenty-five years back.

Mr. Moss—No talking.

The Witness—You can't shut me up.

Mr. Hoffman—I desire on behalf of the minority to protest against this line of examination and this line of bulldozing reputable men who come upon the witness stand before this investigating committee. I believe each witness that comes before this committee has a right to be heard and properly heard, and the questions should be properly put and the witness permitted to properly answer. It is unfair to the minority who are here to see that everything shall get out that should properly come out, that this line of examination should be proceeded with in this manner; and we protest against it.

Mr. Fallows—Will you ask the witness whether he has any other business than that of deputy or assistant to Mr. Croker, who has confessed that he is at the head of the Tammany Hall organization in this city.

By Mr. Moss:

Q. I will ask you that question. Have you any other business besides that of assisting Mr. Croker? A. No other business.

Q. And you have no other means of income, have you? A. That is a personal matter.

Q. You decline to answer that in the same way?

Mr. Fallows—Will you put your question over again now, about the Consolidated Ice Company?

Q. Now I ask you again, have you held any stock in the Consolidated Ice Company? A. The same answer.

Q. Have you held any stock in the Maryland Whiskey Company? A. No.

Q. What? A. That is a personal matter.

Mr. Moss—You said no.

The Witness—Well, I was willing to; but it is a personal matter.

The Chairman—You said no to that.

The Witness—They all say I said no.

The Chairman—Is that correct? Do you wish to retract that answer?

The Witness—Oh, that is a personal matter. You have got no right to inquire into those things.

By Mr. Moss:

Q. Are you in receipt of any money from Al. Adams? A. Not up to date.

Q. Why do you not decline to answer that question? A. Well——

Q. Al. Adams is called the policy king, and I mean, have you received from Al. Adams or any one related to him or connected with him the proceeds of his policy business in any part? A. Never in my life.

Q. Why do you not decline to answer that question? A. That is a pretty public question.

Q. Do you know of any more public question than the monopoly of the Consolidated Company? A. I know very little about the Consolidated Ice Company.

Q. Have not your political associates gone repeatedly to the people as opposed to monopolies? A. We are to-day.

Q. But are you opposed to them, when you have stock of the monopoly in your pockets? A. That don't govern the policy of

the Democratic party, whether I am a stockholder in a corporation or not.

Q. The fact that you have some stock in your pocket or Mr. Croker has does not determine the policy of the party? A. No, no; nothing to do with the policy.

Q. You can take a position against monopoly and cry anti-monopoly all you please, but it makes no difference if you have some stock in your pockets? A. Not as regards the policy; no.

Q. You can carry monopoly before the people and pocket the stock and clip the coupons? A. If we had it we could.

Q. Have you got it?

The Witness—What?

Mr. Moss—The stock of the Consolidated Ice Company?

A. Haven't I declined now half a dozen times?

Mr. Moss—I am asking you again.

The Witness—I won't tell you.

Q. You are a man that is pretty well off, are you not? You are able to live without a salary; with no visible means of support? A. You say so and you must know.

Q. You had said so. Do you know of any difference between your own position as you have stated it and the legal definition of a pauper? If there is any difference, what is it? That is, one without any visible means of support. What is the difference between you and that definition?

Mr. Hoffman—Is that a fair question? I protest against this line of questions as absolutely unfair and unjust.

Q. Can you answer that question? A. I didn't pay much attention to that.

Q. (Repeated by the stenographer). A. There is a long difference between a pauper and me.

Q. That is, in your appearance and in the fact that you have got means. Where did you get it? A. I decline to answer.



Q. Why? A. Personal matter.

Q. Will it tend to degrade you? A. No.

Q. Will it tend to convict you of a crime? A. No.

Q. Are you ashamed of it? A. No.

Q. Are you ashamed of the associates from whom you have received money? A. No. Ask me something about my public life. Twenty-five years I have been holding office. Now, I would like you to ask me about that.

Q. Twenty-five years you have been holding office? A. Yes, sir.

Q. You have been holding office quietly and very little has been said about you; but when you leave that office and and the respectable salary that you were earning, and adopt another course of life and live without starving, as you express it, pretty well, without any salary or any visible means of support, and as the deputy of the boss of the city, it is an interesting thing to know where you got it and how you had it; and you do not propose to enlighten us, do you? A. No, sir.

Q. Then there is something in your record that you can make transparent before us, is there not, during these last couple of years that you have been out of that clerk's office? A. Not that I know of.

Q. You dare not do it, dare you?

The Witness—Dare what?

Mr. Moss—Tell us where you got it and where it is and what stock you have got. You dare not do it.

A. I won't tell you what I have got or my private affairs.

Q. But you dare not do it, dare you? Why are you waiting so long? That is a simple question, do you dare do it? A. I tell you I won't tell you anything about my private affairs.

Q. That is not an answer to my question. Dare you tell? Dare you tell the money you have received during these last thirty days? I can stand these answers if you can. They are just as acceptable to me as any other answers. I am perfectly satisfied with them, only I want to get you on record and I propose to do

it. You are making your record now. Dare you tell all the moneys that you have received, and from whom you have received them, and for what you have received them during the last thirty days?

The Witness—Do you want an answer to that question?

Mr. Moss—Yes.

A. That is a personal matter. I decline to answer.

Q. Now, I am going to give you a chance to refuse to answer that question once more. Have you read the New York Press of this morning? A. I have not.

Q. Do you ever read the newspapers? A. Oh, yes.

Q. As a public man and a man second in command in the great organization of Tammany Hall, you do think it is important to keep track of the newspapers, do you not? A. Well, at times. I don't pay much attention to them.

Q. It is stated in this paper to-day, so that it has become a matter of public interest, that you and Mr. Croker and Peter F. Meyer are stockholders in the Consolidated Ice Company; that Peter F. Meyer is a commissioner of docks in this city; that this company, having swallowed up most of the ice companies, is now, through the Dock Department, of which your fellow stockholder, as it is alleged, is a member, crowding out of business the dealers in ice who have not yet been absorbed by the Consolidated Ice Company. It is alleged that this is being done for the benefit of prominent members in the Tammany Hall organization, including yourself, Mr. Croker and Mr. Meyer, and that it is being done through the agency of Mr. Meyer's dock board, one of the boards of this city. That shows you how important it is and that it is not simply a matter of personal concern. We have already seen in the testimony of Mr. Croker and in your own testimony how complete is the control over the heads of departments in this city by the organization of which Mr. Croker is the chief and you are the first deputy. Now, with all those considerations, and giving them as the reasons for reiterating my question, I ask you again: Have you ever held stock of the Consolidated Ice Company? A. The same answer.

Mr. Moss—Will you direct him once more, please?

The Chairman—I direct you to answer that question.

The Witness—I am sorry.

Mr. Hoffman—I repeat what I said before, that I protest against this line of examination, and I protest further upon the ground that it is not in keeping with the resolution adopted by the Assembly of the State of New York; that we are to investigate the different departments of the city of New York, in so far as corruption exists, and that the question propounded to the witness does not bring out any matter or fact to show that corruption exists in any of the departments of the city of New York.

The Chairman—I think the question propounded by Mr. Moss, the last question, clearly indicates the line of the investigation and the reason for asking this witness this question.

Mr. Hoffman—The witness is asked concerning matters that are personal to himself; nothing with reference to any official department of the city of New York.

Mr. Clarke—I call the attention of the chairman to the third line of the resolution, referring to the object of the investigation now in hand: That corrupt and tyrannical methods have been resorted to in the enforcement of the same.

Mr. Hoffman—The question that has been asked does not, by the form of the question, indicate any tyrannical condition as expressed by Mr. Clarke. It is purely a personal matter. I do not believe that this Committee was appointed to go into witnesses' personal matters.

The Chairman—Mr. Moss has indicated by the question that a city official, a public official, alleged to be interested in a company, is using his official position to coerce and further the interests of that company as against competing companies, and under the resolution it is my judgment that it is directly in line with the course of the investigation.

Mr. Hoffman—Will you read the question again?

Q. (repeated). Now, with all those considerations, and giving them as the reason for reiterating my question, I ask you again:

Have you ever held stock of the Consolidated Ice Company? A. I don't know anything about what Mr. Meyer and Mr. Croker do.

Mr. Moss—Let us talk about something else now. You have put yourself on record and I am satisfied, as I said. I ask that that be reported to the Legislature.

Q. Do you know that the salaries of many of the city officials have been increased in the last few months? A. I read about it in the papers.

Q. You read a lot in the papers. Have you ever spoken about it to anyone? A. Not to my recollection.

Q. The only knowledge you have of it is what you have read in the papers? A. That is all. You seem to forget that I am not the head of a department.

Q. I understand that. The Democratic Club is full of officeholders, is it not? A. They have a roster there. You can send and get it.

Q. Is it not a fact that it is full of officeholders? A. Quite a number of officeholders.

Q. Is it not a fact that every officeholder whose salary is above a certain figure is required to belong to the Democratic Club? A. I never heard of that.

Q. Do you mean to say that the many officeholders in the Democratic Club have not discussed that measure—the fact that their salaries were raised—in your hearing? A. No, sir.

Q. If they did not, was it because they had to give the increase to the organization? So that they were not ahead, after all? What are you laughing at? What are you smiling at Mr. Croker for? A. That is so ridiculous; and you know it is so, too.

Q. You never heard of it before? A. You know it is so, too.

Q. When you talk to me like that I will tell you that a great many say so. It is a matter of common report and anything that is a common report is a matter that is fair to be discussed here. Now, I want to ask you another question. Are you going abroad with Mr. Croker A. No; I *think* not.



Q. You *think* not. Are you sure? A. I will stay here all summer.

Q. You are sure of that, are you? A. I think so. That is my present intention.

Q. Is there anything that may occur to change your present intention, that you think of? A. Not that I know of at the present time.

Q. You will always be within reach of a subpoena? A. Yes, sir; I will promise you that.

Mr. Moss—Then we will treat you with courtesy.

The Witness—I will promise you that. When I am going to leave the city I will let you know.

Mr. Moss—All right; that is a bargain. I think that will do for the present. I suspend Mr. Carroll's examination.

By Mr. Hoffman:

Q. Have you watched the legislation affecting New York city? A. Yes, sir.

Q. In the last five or six years? A. Very closely.

Q. I call to your attention the bill affecting New York, creating a Commission of Jurors in New York and Kings county. Do you know anything about the creation of those two boards in 1896?

The Witness—Special Jury?

Mr. Hoffman—Yes; and the cost attached to it?

A. I think—well, I don't remember about that.

Q. (handing paper to witness). I show you this statement, which you will please look at. I ask you to state some of the Acts of the Legislature passed from 1892 or from 1894 or 1895 down to about the present time, which have in any way directly affected the question of taxation in New York city. You may use that memorandum so far as it is capable of refreshing your memory. I will ask you in this way. I will withdraw that last question. I ask you whether or not chapter 378 of the Laws of 1896, creating special jurors in New York and Kings county has not saddled

New York and Kings county with an expense of \$80,000? A. Yes, sir.

Q. I ask you in respect to the creation of those two offices in those counties, whether or not they have been useful, so far as the office itself is concerned, or whether they have been absolutely unnecessary? A. Absolutely unnecessary.

Q. I ask you in reference to the Primary Election Law, and I ask you what the expense of that has been to the city of New York since its enactment? A. About \$400,000, I think.

Q. Have the taxpayers of the city of New York demanded that law? A. No; but the Republicans demanded that and had a fight.

Q. What has been the cost of the Metropolitan election bill for the year 1898, in the city of New York? A. Ninety thousand dollars, wasn't it.

By the Chairman:

Q. Are you reading from that statement now? A. No; I was thinking.

Q. You are giving your ideas? A. I was just guessing. That is all. I think I am away out of the way at that.

By Mr. Hoffman:

Q. Seventy-six thousand dollars, was it not? A. Yes. I had another matter in mind.

Q. For the year 1899 it will be in the neighborhood of \$110,000, will it not? A. Yes, sir.

Q. Has that been a law that the people of the city of New York demanded? A. I never heard any demand for it.

Q. I ask you in relation to a bill known as No. 2116, introduced by the chairman of this committee, relating to auctioneers; if the bill passes as it has been introduced in Albany, will it not take away from the city of New York revenue averaging between \$50,000 and \$100,000? A. Yes, sir; so it is claimed.

Q. Is it not true that by virtue of that bill the State takes all the revenue from the city of New York, and compels the city

of New York to pay all the expenses provided by this law? A. Yes, sir.

Q. That is true, is it not? A. I think it is.

By the Chairman:

Q. Is that true? Do you make that statement? A. Well, I don't know. I am not sufficiently——

Mr. Moss—You are on oath and you will be held to a rigid accountability for all your figures and statements.

The Witness—I know; but I don't want to make these statements. I know very little about these particular matters you refer to now.

By Mr. Hoffman:

Q. Is it not true that since 1895 the State assessors have increased the valuation upon real and personal property in the county of New York three hundred and fifty millions of dollars? A. Well, I have heard that statement, but I am not sufficiently well posted in these details. The next time I come here I will post myself up in the meantime and let you know. I can't do it now.

Q. Is not the result of this line of special legislation which is passed, and the increase in the valuation of real and personal property by the State assessors, to make the tax rate of the city of New York as high as it is? A. Certainly, it is entirely responsible for it.

Mr. Moss—Let me have this paper?

The Witness—To Mr. Hoffman, if you please, he gave it to me. (Passing the paper to the chairman.)

Mr. Moss—No; I want it.

Mr. Hoffman—That is my memorandum.

Mr. Moss—I want that. I insist upon it. It is in the possession of the witness.

The Witness—Here, I will take it.

(The paper was then handed to Mr. Moss by the chairman.)

Mr. Hoffman—Mr. Moss will find nothing to his advantage there.

Mr. Moss—I am perfectly able to hold a paper when I get my hands on it.

The Witness—You have got a longer reach than I have got.

The Chairman—I think that will be demonstrated hereafter.

By Mr. Moss:

Q. Did you ever see this paper which Mr. Hoffman handed to you to refresh your recollection in testifying? A. I don't remember ever seeing it.

Q. You did testify from this, did you not? A. About some matters that were under discussion.

Q. What is this paper? A. You can read it, can't you.

Q. You have not read it? I am asking you and you had it? You have testified from it. What is it? A. Let me have it and I will tell you.

Mr. Moss—No; I have got it.

The Chairman—There must be order kept in this room. The sergeant-at-arms will see that order is enforced.

Q. What is it? A. I can't tell from memory. I only glanced over the paper.

Q. What kind of a paper is it? What is it about? What is it for? A. Let me have it and I will read it.

Q. You have had it and you testified from it and swore on it? A. I looked only at the figures.

Q. You have sworn on it and you have sworn to the figures that are on this paper. Now, what are they? A. I can't tell you.

Q. Who made it up? A. I can't tell you.

Q. What was it for? A. I don't know.

Q. What have you testified? What bills have you testified about? A. You have got it all there.

Q. What bills have you testified about within the last five minutes? You do not remember, do you? Do you, Mr. Carroll?



Why do you hesitate? I will time you on the answer. What bills have you testified about in the last five minutes? A. That is a nice watch?

Mr. Moss—Yes; and I will take good care of it.

The Witness—You have about the primary election bill I testified about.

Mr. Moss—Yes, that is one, go on with another one.

The Witness—I don't remember.

Q. Well, it has taken you a minute to "Don't remember." How much did you say the Metropolitan election bill cost the city of New York in 1898? A. It is there in figures.

Q. How much did you say? A. What was that? \$140,000.

Mr. Moss—I do not know what it was. I am asking you what you said.

The Witness—One hundred and forty thousand dollars, wasn't it? It is there in figures, I can't carry these figures in my mind. Let me have that and I will tell you.

Q. You say it is there. How can you tell from this? A. It is there.

Q. Who made it up? A. It is a copy. It looks as if it was all right.

Q. Do you not know whether it is all right? A. No, I do not; but on the general idea that I know about the figures of the cost of that primary election.

Q. You say now it was \$140,000? A. I am not sure about it.

Mr. Moss—You have given three different figures already on that matter.

The Witness—Have I?

Mr. Moss—Yes.

The Witness—I don't know what it is.

Q. I want to tell you that it is as much perjury to swear to a thing that you do not know—— A. I know; and I don't want

to commit perjury. I am just as anxious to avoid committing perjury as anybody you know of.

Q. About this Special Grand Jury Law: Do you know who drew that law? A. No; I do not.

Q. Do you not know that Judge Barrett drew that law? A. I don't; no.

Q. Do you not know that it came out of the Appellate Division? A. No, sir.

Q. Do you not know that it was for the purpose of remedying the conditions by which, in such trials as the Carlyle Harris trial, weeks were lost in getting juries? Do you not know that it was for that purpose? A. I think a lot of time was wasted in getting a jury.

Q. (Continuing.) To assist the court in which you were once an officer to get their juries and try their cases. Do you not know that?

The Witness—Let me hear that question again?

Mr. Moss—Never mind. I will not press it.

By Mr. Hoffman:

Q. Do you not know that that law has not been used since its passage? A. I saw something about it in one case the other day.

By Mr. Moss:

Q. Do you not know that one of the committee appointed by the Appellate Division is a Democrat—Henry Winthrop Gray?

A. I know that; yes, sir.

Q. You do not know about what the Primary Election Law cost, do you? A. I have seen it so often that I am ashamed to sit here and not know exactly what it cost. That is so.

Q. How did you see it? A. I have seen it in the papers.

Q. So that everyone of us is just as competent as you are to give an opinion on its cost? A. I would not be surprised.

Q. What sort of knowledge did you have on those figures that induced the honorable assemblyman to question you on them?

What expert knowledge did you have on those things? A. Oh, yes; I have had a good deal of knowledge on those matters.

Q. What was the cost to the city of New York of the Primary Election Law last year? A. You say that I am wrong when I say \$140,000.

Mr. Moss—I said the primary election law?

The Witness—I am really only guessing at these figures.

Mr. Moss—I think that is sufficiently demonstrated.

By the Chairman:

Q. I would like to ask the witness one or two questions in regard to these special jury cases. Are you aware that a bill has been pending in the Legislature during the present session to abolish the special jury commissioner in Kings county? Do you know that? A. I don't remember that.

Q. Do you not know that Judge Barrett has asked that that law be not repealed? A. I don't know anything about that.

By Mr. Moss:

Q. Do you know what the annual expense of the police force is? A. No, sir.

Q. The police force which has charge of elections under the law? A. No, I do not. I haven't—

Q. How can you then in any way contrast the expenditures of the Metropolitan election law with the expenditures of the police force who have charge of the elections? A. Of course this new law—there has been some attention called to it and there has been a great deal of publicity given to it, and I really should have a better idea of the figures than I have got.

Q. Did you ever own any of the stock of the Consolidated Ice Company? A. You have got that answer there.

Q. The same answer? A. Yes, sir.

RICHARD CROKER, recalled and further examined, testified as follows:

Examined by Mr. Moss:

Q. Now, Mr. Croker, you have the reputation not only for truthfulness, but for wisdom; and I am very certain there has been no conference between you and your assistant, Mr. Carroll, upon this matter of the Consolidated Ice Company. Therefore I expect to see you exhibit your superior judgment, when I ask you, have you ever held any stock of the Consolidated Ice Company.

A. I decline to answer that.

Q. In this case it is not man follow master, but master follow man? A. Now, I will tell you; just for your own satisfaction. I am going to decline to go into my own personal affairs.

Q. Why? A. Because I think it is wrong; I think it is wrong, and for your own sake I will tell you that I did own stock in the company some months ago. That is only for yourself and this committee.

Q. How much stock did you own? A. I haven't got it any more. It is gone.

Q. What did you do with it? A. I turned it over to another person.

Q. Who was that? A. My family; my wife. Long—sometime ago.

Q. How much was it? A. I decline to go any further, now.

Q. Was it not \$150,000? A. No, it was not anywhere near that. It was 150 shares, I think.

Q. You see I had the right figure in my mind, now. A. It was worth about twenty dollars a share.

Q. It is worth more than that now? A. Now it is worth forty dollars.

Q. More than forty, is it not? A. No, sir.

Q. Mr. Carroll had some stock, too, had he not? A. I don't know about that. This was Philadelphia ice stock. That is not Consolidated.



Q. You have not answered me about Consolidated? A. I have not got a share.

Q. You are not answering about Consolidated ice? A. No, Philadelphia stock. I had 120 shares. I think it was worth about twenty dollars a share.

Q. Did you buy that stock? A. Yes, sir.

Q. Paid for it? A. Yes, sir.

Q. What was the name of the company? A. Philadelphia Ice Company. Consolidated.

Q. Did you pay by check? A. No, I paid by cash.

Q. Whom did you pay? A. I paid the gentleman that gave it to me.

Q. Who was that? A. Mr. Gelshehen.

Q. That is the President of the Garfield National Bank? A. Yes, sir.

Q. You have a great many financial dealings with Mr. Gelshehen? A. Nothing at all but that.

Q. But he had with Mr. Carroll? A. I ain't answering for Mr. Carroll.

Q. Do you not know that he had? A. I don't know that.

Q. Never heard of it? A. No, I don't know at all.

Q. When was it that you bought that Philadelphia stock? A. That is a year and a half ago.

Q. Does that transaction appear on the books of the company in any way? A. I don't know. It has been transferred properly. It has been transferred to her in her name and she gets a dividend from it.

Q. Mr. Carroll tells me it was the Knickerbocker Company of Philadelphia? A. That is it. Knickerbocker.

Q. How does Mr. Carroll know? A. I don't know. You had better ask him that.

Mr. Moss—How do you know that?

Mr. Carroll—Because I am associated with you now. I want to keep you right.

Mr. Moss—How do you happen to know it was the Knickerbocker Company of Philadelphia?

Mr. Carroll—I know something about the ice business.

Mr. Moss—You do know something about the ice business? Put that down, please. We have got so far.

Mr. Carroll—Yes, sir.

Q. You were not ashamed to tell us that you were the partner of Peter F. Meyer in the real estate business? A. Not a bit, no.

Q. And you did not then plead any privilege. Why do you object to telling us whether you are or were a stockholder in the Consolidated Ice Company? A. I haven't objected to that.

Q. Are you? A. No, I am not.

Q. Have you been? A. No.

Mr. Moss—I am speaking now of the Consolidated Ice Company of New York.

The Witness—No, I am not connected with it at all.

Q. Never had any connection with it at all? A. No.

Q. Has any member of your family? A. Not as I know of. No, not one of the family as I know of. I would know it if they had.

Mr. Moss—There is a definite answer, at any rate.

Q. Have you never spoken to your sons, Richard and Frank, or either of them, about stock in the Consolidated Ice Company? A. Never.

Q. Do you not know that Mr. Peter F. Meyer has been interested in that company? A. No, sir; I don't know it, nor don't believe it.

Q. You do not know it and do not believe it? A. I don't think he has. That is, if he was I think I might know it; but I don't believe he has.

Q. You have been interested in the coal business somewhat, have you not? A. No, sir.

Q. Sufficiently to write letters to people requesting them to purchase coal of some particular individual? A. Not as I know

of. I don't know of any particular persons I have asked. I am not interested at all in coal, no way.

Q. Not even for a friend? A. If a friend came and asked me to give him a letter to anybody I would do it. No further than that.

Q. What would be the good of your letter? A. Well, I don't know. To secure an influence. What good is a letter to anybody?

Q. There is some influence and some power behind it? A. Yes, sir.

Q. And that you, in any capacity, would give to a friend who was in the coal business? A. Yes, sir, I would.

Q. And preferably you would give it to a democratic friend, would you not? A. Yes, sir.

Q. Then is it not a fact that you have written letters of recommendation in the interest of friends, democratic friends who have been in the coal business, or are in the coal business? A. I don't recollect it, really.

Q. You may have done so? A. I don't recollect it.

Q. You may have done so? A. I don't recollect it.

Q. You have done that? A. I have written lots of letters for people for all kinds of things. They come and ask me.

Q. You write lots of letters for all kinds of people? A. Not all kinds of people.

Q. Honest people, business people? A. Yes, sir.

Q. If they come and ask you? A. Yes, sir.

Q. That is, especially if they are democratic friends? A. If they want help I am there to help them.

Q. You feel that is a legitimate thing for a leader of a party to do, do you not? A. Yes, sir, I do.

Q. And it tends to strengthen the organization? A. Yes, sir.

Q. And a man engaged in business who has a letter from you recommending his wares goes out with that letter to endeavor to secure customers on it? That is what you give it to him for? A. Not to go and peddle it around, no.

Q. But to use it where it is useful? A. If I am asked by a friend to give a letter, I generally do it.

Q. And it is in order to boom him or boost him in his business? A. To give him something to do; to help him along.

Q. And at the same time to sustain the political organization of which you have the directing mind? A. Yes, sir.

Mr. Moss—And of course we do not characterize that as a harmful, immoral or corrupt practice, either of us.

The Witness—I don't think so.

Mr. Moss—That is an incident.

The Witness—You have done that yourself, haven't you?

Q. That is an incident to the situation of affairs in New York, as we have them to-day, is it not? A. A natural thing to do, for a man, if he wants to help his friends.

Q. And if he wants to sustain his party as well? A. Yes, sir.

Q. So that your party is built up not only upon the political principles which it holds, but upon the way that its members sustain each other in business, is it not? A. That is right, yes, sir.

Q. You have been interested in quarries, too, have you not? A. Never in my life.

Q. Do you not know of any quarries in Vermont, or down east there? A. Never. Not one.

Q. Not one? A. Not one.

Q. Nor in any stone business? A. No stone.

Q. Or with any people that are interested in any? A. None at all.

Q. Do you know of any people interested in quarries that want to put their stone in public buildings? A. I have got hundreds of letters from people, through something I saw in the paper not long ago, about my son going out to some place through the State, and I got a lot of letters of recommendation for quarries and all sorts of things. I tear them all up. My sons or myself are not interested directly or indirectly at all in any quarries.



Q. And in giving these letters for the assistance of your friends, your Democratic friends, you sometimes write to the heads of departments, do you not? A. Sometimes.

Q. You write to the heads of departments? A. I haven't done it lately at all. I used to do that.

Q. You used to write to the heads of departments in the city in the interest of the business or the supplies of these particular friends? You have done that, have you not? A. No, I have not done it lately.

Q. Before—you used to do it? A. Not for supplies—I don't think I ever wrote.

Q. For what? A. For places; for situations.

Q. For places and situations in departments? A. Yes, sir.

Q. But have you not recommended materials or supplies to any department? A. Not that I know of; not one.

Q. Are you sure that there are no letters in existence signed by yourself, or by members of your family? A. I don't think so.

Q. Recommending particular supplies? A. I don't think so.

Q. Or materials? A. I don't think so.

Q. Or methods of construction? A. I don't think so.

Q. You do not think so? A. I don't remember of any.

Q. You are not sure, are you? A. The family might write letters; some of the boys might write a letter to someone without my knowledge of it. I could not stand for that. I could not tell that, you know. There may be some.

Q. That would not be contrary to your position? A. I would rather they would not do that.

Q. You are a member of the Air and Power Company? A. Yes, sir.

Q. Which has offices in the Syndicate building? A. We are not in there yet.

Q. You have not got there yet? A. No.

Q. What is the capital stock of that company? A. Ten million dollars.

Q. How much of that stock do you hold? A. Well, it has not been settled up yet. It ain't out on the market at all. It is in the treasury yet.

Q. How much have you subscribed for? A. Nothing at all yet.

Q. How much is to be your proportion? A. I don't know that.

Q. You are to have some of it, are you not? A. That I can't tell you.

Q. You are taking a lively interest in the Air and Power Company, are you not? A. Yes, sir.

Q. You expect to have your hand in it, do you not? A. Expect that is going to be a good thing.

Q. And this air and power will be supplied to anybody who wants to use the air and power all over this city? A. Yes, sir.

Q. Including the public buildings? A. If they think it is a good thing. There is no chance to use them in public buildings, that I know of.

Q. Can you not devise some way to make them useful in public buildings? A. We haven't got to that yet.

Q. Is it possible? A. I don't know. I am not one of the inventors, you know.

Q. Of course not; but you are a man who has taken an interest in the thing and believe it is a coming good thing? A. I believe it is a good power, yes, sir; it requires a little development, yet, though.

Q. Who first proposed to you to go into that company? A. Mr. Hoadley himself spoke to me about it. Mr. Knight, the engineer. Mr. Hoadley, I think was the first.

Q. Did he propose that you should put money into it? A. I decline to answer that question. I told you before that I won't answer any question concerning my private affairs.

Mr. Moss—You have answered about the Consolidated Ice Company.

The Witness—I told you that just because you were so anxious.

Mr. Moss—I am anxious about this.

The Witness—You won't know anything about this.

Q. Why not? A. Because that is my own affair personally. It does not concern New York; no city department or anything else. It is not a thing to go to the people in general. The city has nothing to do with it at all.

Mr. Moss—I will tell you frankly how it does concern the people of New York, and I want you to understand what is in my mind while I am asking you these questions. There was a time when it is on record that you were a poor man, and you will not deny that there was a time when you were a poor man.

The Witness—I was a poor man when I was a boy, yes; and I don't know how poor you are now. You have been in the police department and you ought to know how it is.

Mr. Moss—I am here conducting this investigation, and I am right before you and you own the Police Department now. I am not going to Europe this summer.

The Witness—You are conducting this investigation by a minority vote of the people of this city, and I am sitting here representing my friends with a big majority vote. You have been put out of the Police Department by the people. The people put you out of the Police Department, and the Police Department has thrived and has benefited since you left it.

Q. With Mr. Devery? A. Yes, with Mr. Devery and the present commissioners.

Q. You believe in Mr. Devery? A. Yes, sir; he is a good man.

Q. You believe he is a good chief? A. Yes, sir, I believe he is a good chief.

Q. A better chief than McCullagh? A. Fully as good, yes.

Q. Mr. Croker, he is a personal friend of yours, is he not? A. He is a pretty nice fellow.

Q. He is a personal friend of yours, is he not? A. Not personal, no.

Q. You have been to his house? A. Never entered his house.

Q. You did not enter his house just before he was made chief? A. No, sir. I have got you right there now. I never was in his house in my life.

Q. I am sure you know. Did you talk with persons about his being made chief of police? A. I helped to make him chief, and did all I could for him.

Q. What was that? A. Everything that laid in my power.

Q. What did you really do for him? A. Everything I could.

Q. What was that? A. Speaking to the commissioners, and did everything for him and urged them to put him in.

Q. Did you speak to the mayor? A. I don't remember; I don't think I did.

Q. You know that the commissioners could not do it at first because there were two commissioners in the board, Messrs. Phillips and Hamilton, who would not vote to retire McCullagh. Do you remember that? A. I believe so.

Q. What did you do to overcome that situation? A. I was in Europe when it was done.

Q. You did everything to help him. What was that? A. That was before I left. I thought he would be a very good man, and always thought he would be a good man.

Q. Did you discuss the matter with Mr. Carroll? A. No, I did not. I think I probably did before I left. If there came a change there I said I thought he would be the best man to take the place.

Q. You knew Mr. Hamilton and Mr. Phillips would not vote to retire McCullagh, did you not? A. I didn't know that.

Q. You did not know whether they could be induced to vote to retire him? A. I was away when the change took place, and I was very glad of it, when it did take place.

Q. It went to suit you? A. First rate.

Q. And you consider that you had a large share in the putting of Mr. Devery into that position and the retirement of Mr. McCullagh? A. Yes, I think I did. I had something to do with it.

Q. Do you remember putting yourself on record as being perfectly satisfied with the way in which Mr. Devery has managed the department? A. Yes, sir; I do.

Q. Do you hold yourself and your party responsible for his administration of that department? A. No, I do not.

Q. Is your party satisfied with it? A. Your party has something to do with it.

Q. Is your party satisfied with it? A. We think it is as good as can be made, under the circumstances.

Q. You are satisfied with it? A. Under the circumstances.



Q. I was about to tell you what lines of thought were in my mind upon which these financial questions were being shaped, and I had said that there was a time which you remember and which the people remember, and which I think appears in testimony in a former investigation, when you were, comparatively speaking, a poor man. Since that time it does not appear that you held any official position, that you have been in receipt of any salary, that you have been in receipt of any known source of income. It does appear that you have been in control of a political organization, which has many times dominated the city and over which you have had a large control, as you have to-day. It is now very apparent that you are a wealthy man, because you are able to indulge in those things in public, which nobody but wealthy men can indulge in.

The Witness—What are those things I indulge in?

Q. Wait a moment. And the people are interested in knowing how you got that money, and I propose, in as gentlemanly a way as possible, but in as firm a way as I may have to, to ask you those questions—

The Witness—Yes, sir.

Q. (Continuing). Where you got it. A. Yes, sir. You have been reading the World. You are just catering for that paper now. Now, let me tell you something. You are asking me now. I will ask you back—

Mr. Moss—Will you stop the witness.

Mr. Hoffman—The witness is about to answer.

The Chairman—Let us proceed in an orderly way. I think I can get along with Mr. Croker all right.

Mr. Moss—I am just telling you what I am going to do and that is the purpose of my question.

The Witness—Go right on.

Q. And I am going to ask them and give you an opportunity to answer them or to refuse to answer, or to deny the general belief on those matters. Now, in line with that I will ask you this question: Did you not a few years ago make a business connection with Ex-Governor Flower? A. No.

Q. Have you not had business relations with Ex-Governor Flower? A. No.

Q. Have you not had matters in common interest, financial matters, with that gentleman? A. No.

Q. Have you not had speculations, which were directed in part by Mr. Flower? A. Well, I might speculate in the office on a stock, a certain stock, and sell it out on a margin, and go on in that way. But I will tell you now, that I will show you, if you want to, the books of our office for these last seven years that you have been talking about, and you can just see what I have made. I will oblige you with that.

Mr. Moss—I would be very glad to see it.

The Witness—We will show you the books. There is Peter Meyer's there, and I want to say to you now that my half in that business has amounted to anywhere from \$25,000 to \$30,000 for the last seven years, right along.

Q. That is simply the real estate business? A. Real estate, and I have got more money now than I had when I was in a public office. I had none or very little when I was there. It is since I got out of that. My speculations in Wall street, or any other place I am not going to tell you now. If you can show me where I have taken a dollar from this city you can cut that right arm off—or encouraged it, either.

Q. We have this, then: That you have prospered more since you left public office? A. I think I have.

Q. And that was quite some years ago? A. Yes, sir.

Q. Do you mean to say that all of your business transactions, all of your business income, is shown upon these books that you have referred to? A. The income, yes, sir; outside of any specu-

lations that I might make with my friends. No, Mr. Moss, you are a pretty smart man——

Mr. Moss—I do not know whether I am or not, when you are here.

A. (continuing). And I want to say this: I have got nothing to hide at all, and if any one tells me of a nice stock to buy, and I can make a little turn on it, I am going to do it, and I have done so. There is nothing to hide at all, and you will do it yourself, if you get a chance.

Q. Did you make considerable money in the transaction at the time you were advising with Governor Flower? A. I won't go any further into it now. I am just giving you the general knowledge, and that is all.

Q. You said you had nothing to conceal? A. I don't; but I am not going into my private affairs with you in detail. I say that to this committee now.

Q. If you have nothing to conceal—— A. Not that I am ashamed.

Q. Wait a moment. If you have nothing to conceal, I ask you again, what amount of stock was it proposed to you that you should take in the Air and Power Company? A. I can't tell you that.

Q. Was it proposed that you should take some stock? A. That I have not—I can't tell you. I can get whatever stock I like out of it.

Q. You can get whatever stock you like out of it? A. I suppose if I ask for 1,000 or 2,000 shares I could get it, providing I pay a certain price for it. That is all there is about it. That has nothing to do with the city of New York at all.

Q. Have you not already received money from persons interested in the Air and Power Company? A. I bought some little stock in the International Air and Power Company and sold it. I bought that in Wall street, right off the street. I bought 300 shares the other day for—I think I paid about seventy-two for it, and I sold it for eighty-five the other day. International Air and

Power Company. I went further, probably, with this than I intended to go, and I don't go any further. That is my personal affair, and you will please excuse me.

Q. That is the second one, and we are going to be mutually obliging in this business—— A. So any other questions you ask me about my personal business, I decline to answer.

Q. (continuing). You have more at stake than I have in the matter. It is well for you to consider that.

The Witness—Not a bit.

Mr. Moss—A man who is so public a character, and who has such a tremendous power in this city—his affairs should be as transparent as glass.

The Witness—I don't know that he should.

Q. If you were not in that position, I should not consider that I had any right to pry into these matters. Just digressing for a minute, do you remember what Judge Pryor said, that you asked him for a \$10,000 contribution for his nomination? A. Well, he didn't exactly say I asked him for it, did he?

Mr. Moss—Yes; he did.

The Witness—I didn't ask him for it.

Q. Did you not ask him? A. No; I did not.

Q. Who did? A. I will tell you about that. The Southern Society had Judge Pryor as a candidate for judge here some fourteen years ago. I think it is fourteen years ago. No, it ain't fourteen. Ten or twelve years ago. He is of age now—he is seventy years of age now, and he had to retire. Ten or eleven years ago, at all events. They urged Judge Pryor as a candidate, and we thought well of it, and they nominated him, but he asked me what I thought would be a proper contribution to the election? A. I told him there was 1300 districts in the city of New York, and I thought at least there should be one man in each district to take charge of his tickets, which would be seven or eight or nine thousand dollars, with one man in each district, and I thought



that the finance committee at that time would exact about \$10,000 as a contribution, and he said he was perfectly willing that it should be paid towards the election; and that he had—he wanted to know if that would be enough in regard to the State. Governor Flower, I think, was running at the time. I told him it would cover everything. I told him we would cover something of the State, if necessary.

Q. Where did this conversation take place? A. I think that was in Tammany Hall at that time.

Q. Did he go to Tammany Hall to arrange those matters? A. Yes, sir.

Q. Did other judicial candidates go to Tammany Hall in the same way, to arrange about paying their assessments? A. Well, no; I don't think they did. I could not recall now the different places where they were.

Q. Judge Pryor is not the only judge who has discussed this matter with you or with your subordinates, is he—this matter of paying his assessments?

The Witness—Other judges, you mean?

Mr. Moss—Other judges have done the same thing, haven't they?

A. They have done it; yes, sir.

Q. You do not mean to say you made a special thing against Judge Pryor in that matter? A. No; not at all.

Q. It was a common thing?

The Witness—What do you mean?

Mr. Moss—A common thing for judicial candidates to pay in money that way?

A. Yes, sir; they should pay a part of their expenses.

Q. Exactly. It was a common thing to come to Tammany Hall?

A. The organization could not pay their expenses for them.

Q. It was a common thing for them to come to Tammany Hall at the proper time and arrange the details? A. I should think so.

I could not recall where they would go. They may go to different places, wherever it was convenient. They might see the people who were in their districts, the leaders.

Q. But it was for the purpose of getting into line with the organization, and contributing to the organization expenses, was it not? A. Yes, sir; helping the organization out.

Q. You heard Judge Pryor testify that his check was drawn to your order. Did you see the check drawn to your order? A. I don't recollect that. Probably it was.

Q. And it was taken back to him with the suggestion that it had better be drawn to bearer. Why was that? A. I did not want any checks drawn to my order of that sort.

Q. Why should it not be drawn to the treasurer of the organization? A. I don't know. I don't recollect the cause of that, the reason at all. Probably it was coming in right on close to the election, and they had to get the money to get to the men who distributed the tickets. They often do that.

The Chairman—It was on the 18th of October, as I recollect it.

The Witness—Was it the 18th of October? I don't know. There was a little talk in those days about judges being assessed very heavily, and whenever they sent to me I said I had nothing to do with it.

Mr. Moss—You left that to the subordinates?

The Witness—Yes, sir.

Q. And you left them to manage this? A. Yes, sir the treasurer did that.

Q. Were these assessments that were paid by the judges and by other candidates entered into any account books? A. No.

Q. No account kept of them? A. No.

Q. Were the assessments of any of the candidates entered into account books? A. No.

Q. Was any record whatever preserved of the receipt and the expenditure of those assessments? A. No; I don't think so. I never kept any.

Q. Do you know to whom they were given?

The Witness—The assessments?

Mr. Moss—Yes.

A. There were no regular assessments. Men would pay just what they liked.

Mr. Moss—Call them contributions.

The Witness—Contributions. There was a great many of them given to the collector who went around collecting for the organization. A great many sent right to the treasurer themselves.

Q. Did you not personally endorse a good many checks that came in for contributions? A. Yes, a great many.

Q. Those were similar to the checks that Mr. Moran produced at the Lexow Investigation? You remember those? A. Yes, sir.

Q. Mr. Moran was a contractor? A. Yes, sir.

Q. He wanted to do contracting in the city or for the city, and he sent his contributions to Tammany Hall for campaigning expenses, did he not? A. Yes, sir; I never saw him in my life, nor he never saw me.

Q. You got the check, however? A. A small check for \$100 or \$75.

Q. You endorsed those checks? A. I endorsed it and turned it over to the treasurer.

Q. Do you remember that the treasurer's name never appeared on those checks?

The Witness—They never did appear?

Mr. Moss—Yes. That was a matter of public notice at the time, and it was brought to your attention that the only endorsement on the back of those checks was "Richard Croker".

A. No; his name was on it.

Q. McQuade's name? A. McQuade's name appeared. Oh, yes.

Q. If there was no record kept of the receipt of those contributions— A. The bank where Mr. McQuade made his deposit always showed that on the check. That showed on that check.

Q. If there was no record kept of the contributions received, and of the expenditure of those contributions, how could you keep track of them? How would you know that the moneys were being properly handled and applied to their proper purposes? A. We applied them generally when the men went out with the tickets. When they distributed their tickets the leaders of the district got as much to give to each man in their district.

Q. But as large a contribution as \$10,000 going into the hands of the treasurer went into the bank, did it not? A. Yes, sir.

Q. And was drawn on by check? A. Yes, sir.

Q. To that extent there was a record of it?

The Witness—What was drawn on by check?

Mr. Moss—The \$10,000 of Judge Pryor that went into the bank?

A. Yes, sir.

Q. There were checks drawn on that, naturally, were there not?

A. Not as I know of. What checks?

Mr. Moss—Checks of the treasurer.

The Witness—Afterwards?

Mr. Moss—Yes.

The Witness—After this money was deposited?

Mr. Moss—Yes.

A. Not as I know of. Probably there was; yes.

Q. These checks may have been cashed and the money used instead, may they not, so far as you know? A. I don't know.

Q. Are you perfectly clear that there exists no record showing the contributions received and what was done with them?

A. Never kept them. I never did, and I don't suppose they did.

Q. Did you not handle many of those contributions yourself?

A. Quite a number.

Q. Are you sure that in every case you turned the entire sum over to Mr. McQuade? A. All the time.



Q. Are you sure a bank account was kept into which Judge Pryor's check went? A. I think Mr. McQuade had it. I ain't sure about that.

Q. Is it not a fact that these contributions, when they were in checks, were cashed and the money used at once?

The Witness—The money used right away?

Mr. Moss—Yes.

A. Oh, no; it was left in the bank until a certain time when they wanted to use it.

Q. Are you sure the money was left in the bank and drawn out by check? A. I don't know. I don't know how it was drawn out. No; not drawn by check.

Q. Is it not a fact that many of these checks, when they came in the form of checks, were cashed over the counter, and the money taken back to Tammany Hall? A. No. The way they generally do that is, when people contribute to the organization, along two or three weeks before the time, all those contributions are turned over to the treasurer, and he deposits them in his bank. Well, there is very little—few checks drawn out of the bank after that. That money remains there until the time comes, a day or two before election, or two or three days before election; then each district leader—there is a certain man who acts towards his district, towards employing men in his district. You know that. You have been through that business yourself. And in that way they bring the money with them to each district, laid out. There is thirty-six districts and there is thirty-six bundles of money for each leader to take with him, and distribute among his friends at the polls, to distribute the tickets.

Q. Did you ever have any stock of the so-called Huckleberry Railroad, more properly known as the Union Railroad? A. I decline to answer any more of those questions.

Q. You will not answer any more of those questions? A. No, no more questions.

Q. Why? A. I told you why a little while ago.

Q. Who gave you the stock of that road? A. I told you I would not answer you.

Q. You will not tell me that? A. No, sir.

Q. How much did you pay for it? A. I told you I wouldn't go into my personal matters.

Q. You will not tell that? A. No, sir.

Q. Would the answers to those questions tend to degrade you?

A. I don't know.

Q. Would they tend to convict you of a crime? A. I don't know.

Q. You do not know? A. No.

Q. Is it because you have doubts on those subjects that you do not answer the question? A. No; not the slightest.

Q. But you are not certain? A. I am certain I do not want to answer you those questions.

The committee then adjourned to Saturday morning, April 15, 1899, at 10 o'clock a. m., at the post-office building.

NEW YORK, SATURDAY, *April 15*, 1899.

The committee met pursuant to adjournment at 10:30 a. m., at room 73, Federal Building.

All members present.

RICHARD J. FOSTER, being duly sworn, testified as follows:

By Mr. Moss:

I am engaged in the ice business in the city of New York. I have been in that business for myself a little over five years. My depot is foot of Morton street, North River. I do both a wholesale and retail business. I should judge fifty independent wagons and peddlers come in the season. I get my ice from the North River, most of it. It is necessary in my business to have what is called an ice bridge, upon which the ice can be landed from the boats, and it is necessary for me to have docking facilities. I couldn't do my business without docking facilities and the use of the ice bridge. The Department of Docks in the city of New York controls docks. I have come in contact with the Department of Docks. I have to get my lease from them. I have about ninety-four feet of space. I pay for it \$2,050 per year rent. Ninety-four feet of bulkhead. I have no pier. I am between two piers. I had a pier three years ago, up at West Eleventh street. I had a portion of the pier, about 120 feet. I paid \$2,050 rent for that. It was a very large pier; they hadn't made improvements in that section then, but it extended out—It must have been 400 feet in length at that time. An approach has been made to me to have me go into the Consolidated Ice Company, some time ago. They said they would like to have me go in with them. At that time it was Mr. Morse that said it. That was the president. He tried to buy out my business, and give me a salary and have me work for them—associate my business with them. This was when I was at West Eleventh street, and I think it was about \$15,000 he offered me for my business, part money and part stock. I have been doing business at my place this last winter, taking in ice. That is foot of Morton

street, North River. I had a little trouble this winter, on account of the snow storms; they wanted to take down my platform and make facilities greater in that section of the city to dump snow. The Dock Department wanted to take down my platform. They actually removed it. It was removed four times in all. They sent me a letter that the permit was revoked for the ice platform, and the engineer had been ordered to remove it. That was an official notice from the Dock Department. My lease there was not really of practical value unless I could have my ice platform or bridge. It was very essential I should have the ice platform. It would cripple my business there very much to be deprived of the bridge. It would in the summer time, of course—in the winter time I could get along fairly well. I would be inconvenienced some. I removed part of it. The first notice I got about Christmas time. I removed half of it. Then I called on the president of the board and explained to him the situation, and asked him if he wouldn't allow me to keep part of it up so I could continue to do business. The president of the board was Mr. Cram. He said he wanted to be fair with me—he didn't desire to force me out of business—he told me on account of the snow in that particular section there was not facilities enough to dump snow and wanted all hands to help the Department out; I told him I would do it and asked him to leave up a portion of it, so I could do business, and he thought he would. I removed half of it before I asked him to let me keep up the other remaining half. The remaining half was taken down later. I don't think there was any snow dumped off that dock in December. I was there every day, most every day in December. I have no recollection of any snow being dumped off that dock in December. I was allowed to go on with half of my bridge about three weeks. Then they said they would have to take it down, to be prepared for the snow when it came. It takes to cut down my bridge, with sufficient help, about a day. One of the assistant engineers of that section told me it would have to come down, Mr. White. They took it down. They had bars and tools necessary to do it. It was the latter part of January, I can't say the date. Up to that time no snow had been dumped off the dock. I think there was snow dumped off the dock in January. I didn't



count the loads; the City Department of Street Cleaning, I think, only dumped perhaps a dozen loads, but the Dock Department which have the water front, bulkhead line along there, their carts dumped there—that was separate from the city. There are other places where the snow could be dumped without cutting down the bridge, a place right north of me that is set apart, on account of the excess of cold weather the slips so choked up with ice that they had to get all the room they possibly could. I restored the bridge. I am speaking now about the last time it was torn down, after the bridge was taken down the last time it remained down for about three weeks and then I restored it with permission from that Department. The dock was taken down either in whole or part four times all together. I will send you the notice that I received if I have it—I have filed it away with last year's papers—if I can find it I will.

By Mr. O'Sullivan:

Q. I would like to know, sir, if the docking department treated Mr. Foster at any time with discourtesy. When you went to the Dock Department, Mr. Foster, did they treat you courteously or discourteously in regard to the necessity of using this bulkhead?

A. I did all my consulting with the president of the board, Mr. Cram, and he always used me very kindly.

Q. And at different periods during the winter they dumped considerable snow from the location where your ice bridge was?

A. Yes, sir; a great deal.

Q. And you realize, Mr. Foster, that last winter we had an extremely heavy snow fall? A. Yes, sir.

Q. Was any unlawful proposition of any kind made to you by any official of the dock board? A. No, sir.

Q. Was a proposition made to you by Mr. Morse, the president of some ice company—did you regard that as unlawful? A. No, sir; because the proposition was made over three years ago that I spoke of.

PETER F. MEYER, being duly sworn, testified as follows:

By Mr. Moss:

I am a member of the dock board. I am a dock commissioner. I have no position such as secretary or treasurer. I am also a member of the firm engaged in the real estate auction business with Mr. Croker. Mr. Croker and I are the only members of the firm. That firm was formed in 1892. Prior to that time—that is, the formation of the company or co-partnership—I was a member of the firm of A. Muller & Sons, and was engaged in the same line of business, selling in the auction rooms in Liberty street like other auctioneers, selling property at judicial sales, among other things; sold at Liberty street and 111 Broadway before we went to Liberty street. The salesroom was removed by order of the court from 111 Broadway to 59 Liberty street, with my consent. With my consent before my connection with Mr. Croker, the business was removed from 111 Broadway to 59 Liberty street.

Q. And up to that time you had a fair division of the judicial sales business with the other auctioneers; I mean you had your fair proportion? A. Never looked for them, sir; we don't to-day.

Q. You don't have to look for them do you? A. No, sir.

Q. They come without looking? A. Yes, sir; all my business comes without looking.

Q. That is one of the things we want to inquire about, you did get a large number of judicial sales, didn't you? A. Well, you seem to know more about it than I do.

Q. Well, don't you know? A. According to your statement 249 in 1897, and they brought in the enormous income to Richard Croker of about \$3,700 in twelve calendar months, and myself. A gold mine.

Q. He has testified that his profits in the concern annually were twenty-five or thirty thousand dollars? A. Yes, sir.

Q. But that was outside of his judicial sales wasn't it? A. Yes, sir; through executor's and trustee's sales. I can make more in one executor or trustee's sale, when I am dealing with honest people, than I can out of 500 legal sales.

Q. Well, the legal sales, a large number of legal sales coming into the hands of an auctioneer while they do not produce a very enormous income are pretty good advertisements are they not? A. I don't think so, no, sir; they are published in such out-of-the-way papers that nobody sees them only the people directly interested.

Q. But the people in the trade see the name of Peter F. Meyer constantly presented upon the rostrum and constantly selling property sent in from the court? A. Peter F. Meyer is so well known in this town he don't need any advertisement.

Q. But there are other auctioneers very well known in the town? A. Yes, sir.

Q. Prior to Mr. Croker's coming into the firm you did not have so many of these sales? A. No, but I had many more sales, and made twice as much money as I do now.

Q. Do you mean to say you made twice as much money before you went into partnership with Mr. Croker? A. Yes, sir. I made \$164,000 in twelve calendar months; more than you will ever make in your life in this business.

The Chairman—You must confine your answers to the question and not volunteer information.

Mr. Moss—I do not mind that; I am perfectly willing to let the witness talk as much as he pleases; that is part of my business.

The Chairman—I direct the stenographer to strike out the last part as irresponsible.

Q. Do you think your association with Mr. Croker has decreased your income? A. No, sir; I consider my partners were some interest to me, even in the old firm; they have a clientage and are still in the business; I could not take all the business.

Q. You left a connection, a connection with the old firm, which had a very large clientage, and in the profits of which you participated in order to make combination with Mr. Croker, which has not turned out so well for you, is that it? A. No, sir, not in order to do all that, don't put words in my mouth, not in order to form a combination with Mr. Croker—hadn't any intention of

forming a combination with Mr. Croker when I left the firm of A. H. Muller & Sons.

Q. Then you were out of the partnership when the proposition to form the co-partnership was made? A. Yes, sir.

Q. Did he make it, or you make it? A. I think some friend spoke to me about it, and I spoke to him.

Q. You spoke to Mr. Croker? A. Yes, sir.

Q. And your object was to get the benefit of his reputation and his influence in your real estate business? A. No, sir, it was to get satisfaction out of certain people I had a little grudge against—I don't want to go into that at all.

Q. How was your going into a partnership with Mr. Croker going to give satisfaction against some other people, I don't understand that? A. I am not going to explain personal affairs, and you may as well understand that now.

Q. I am not going to press that part of the inquiry if you don't care to give it? A. I won't do it.

Q. Only you volunteered it and you have the privilege of making it more clear if you want to do it? A. I will make everything clear enough.

Q. Now, isn't it a fact that in the last year that you were in Mr. Muller's firm the judicial sales for the year were fourteen? A. That is owing, possibly, to the times.

Q. That was so? A. Yes, sir; there were more foreclosures this year than there were in 1897, and more in 1897 than there were in 1892—it is a good deal in the times; the prosperity of the people has a great deal to do, and probably my pro rata of legal sales would have been nearly as large in 1892 as in 1897.

Q. Yes, but Mr. Keanelly in that year had about sixty-eight and even Mr. Hartnett had forty-eight that year, so that your firm had relatively a small proportion? A. As I said we did not look for them.

Q. I understand that, you do not look for them but they come and Mr. Croker has said it is proper they should come and he expects they will come; that it is in line with the general proposition? A. I am expressing my own ideas.

Q. I understand, but I am telling you what Mr. Croker, your partner, has said; he looks for it and expects it, now this past year, 1898, and 1897, your firm has had a majority of the judicial



sales, hadn't it? A. I never keep track of them, it is so small a part of my business I do not pay any attention to it.

Q. You only make about \$3,700 a year out of them? A. That is all, about, half of \$3,700.

Q. That is such a small matter you do not care anything about it? A. No.

Q. Your mind runs to larger things? A. Yes, sir.

Q. You are associated with larger people than that, financially speaking? A. Yes, in the financial world.

Q. The figures that I presented the other day—the number of sales you have had during those two years was substantially correct as you read them, weren't they? A. I take your word, you have made an examination, I have not.

Q. Who first spoke to you first about becoming a dock commissioner? A. Nobody spoke to me first, I think I spoke myself. I asked two or three people if they thought I had any chance, knowing I wouldn't speak to Mr. Croker directly. I spoke to them indirectly. I thought my friends could do better for me than to speak to my own partner. Consequently so in an indirect way I approached Mr. Croker, my partner, in order to be appointed a dock commissioner. I suppose he gave his consent by having me appointed. He had me appointed; yes, sir. No, I got my appointment from the mayor. I didn't say I applied to Mr. Croker, I said indirectly. I had friends outside and he must have had something to do with my appointment, as he was the only man I applied to indirectly. I did not apply to the mayor directly. I did apply to the mayor indirectly through those same people, through those same people that applied to Mr. Croker. I never had any conversation with Mr. Croker. I cannot recall now who those gentlemen were. I never go to an unimportant link to get such a thing as that. I don't know who they were, not too many of them. I didn't mention any numbers, Mr. Moss. I speak on so many things, on so many important matters, that I do not imprint them on my memory unless it is necessary. I might casually have had a conversation with the mayor about it before I was appointed; I think I did, once, yes. I don't know where, it might have been on Broadway; it might have been in a café; it might have been in a dining-room; I don't know where

it was. But it was after I had spoken to these intermediate friends and I had had some intimation that my proposition was looked upon with some favor, that I might stand a chance of getting it. I had the pleasure of going down to Lakewood once. I was not there when the slate was being made up. I considered everybody at Lakewood, outside those I didn't know, my friends, that is, I have many friends in the organization. I don't know whether I stand well in the organization. I trust to providence for that. I can't read people's minds, I think every man is a friend of mine if he does the friendly thing. I don't know but you are a friend of mine, yes, I trust you will prove such. I don't hold an official position in the organization. Not an official position; I am merely one of the following of six or seven thousand members of the general committee of the organization. I am not on the executive committee. I do not hold any position or relation in which money is placed in my hands—money of the organization, not of the organization; with the society. I am treasurer of the society, there is a difference between the organization and the society. They are two distinct organizations. The society is the old Columbian order, founded a hundred years ago or more by patriotic people. For charitable and social purposes, for mutual support, and for brotherhood and man's affection for man, under the inspiration of that good old saint, the Indian Tammany, and they say he was a good one too. The society is a secret society and the organization is an open organization; open to the world. Any man can join it that agrees with its politics, it is connected in no way with the society; none whatever, sir. The Tammany Society rents or leases to the organization its quarters in the Tammany Society building. The name of the organization is Tammany Hall. It is not incorporated, excepting by the people's votes. The executive committee holds the lease of Tammany Hall from the society. The executive committee, sir, is a body, I think, of thirty-five men. I am not a member of that committee. I am one of the officers who executes the lease of that committee, and Mr. Croker is a member of the committee to whom the lease is made, so he is one of the lessees of the temporalities of the society. He is a tenant of the society. If he don't pay his rent we will put him out. I

consider that Mr. Croker is our tenant at Tammany Hall. The Dock Department of which I am a member, has control of the water front. The leasing of all docks is done by that department, all docks, bulkheads, all lands under water pertaining to bulkheads and docks within the jurisdiction of Greater New York. I never consult with the mayor regarding the affairs of my department and its policy. Never have consulted with the mayor. He never asked me to consult with him. I have never once been called in consultation by the mayor with reference to the affairs of the Dock Department. I voluntarily called upon him to make some explanations and his answer was "You are the dock commissioners; I hold you responsible, and I do not desire to run the Dock Department." So that so far as the mayor is concerned I am entirely free, and the mayor has never inquired into the personal business or the personal relations of the members of my department so far as I know. So far as I am personally concerned, I have never talked over the affairs connected with the Dock Department with any other gentleman. Not even with Mr. Croker or Mr. Carroll; no person connected with the organization has ever interfered, excepting a leader might come and want something done which would be refused if it wasn't right, just the same as any other person or citizen who would apply for something he couldn't have and would get the answer, no.

Q. Have you ever held any stock in the Consolidated Ice Company? A. That is a personal matter, sir; but for your information I desire to state that I do not own any. I own all kinds of stocks that are dealt in in Wall street that are paying investments. When they are cheap I buy them and when they are dear I sell them.

Q. Did you ever hold any stock in the Consolidated Ice Company? A. I might, possibly, a year or two ago, yes.

Q. How much? A. Oh, five hundred, a thousand, fifteen hundred, according to how good a thing I thought it was. I brought it from my brokers. I actually bought it in the open market, in the Stock Exchange. The stock of the Consolidated Ice Company was on sale in the Stock Exchange. It was called, I believe, an unlisted stock. It has a figure before it on top, which indicates

it is an unlisted stock. It was a cash transaction. I pay for all my stocks in cash; never run tick with anybody. I bought it for both speculation and for the dividend. I bought the certificates, I got 500, 1000, or 1500. I think I received one or two dividends on it.

Q. At what rate did you buy it? A. Now, my dear friend, I am not going to tell you any more. I volunteered this for you. I will not answer another question in relation to my private affairs.

Q. But you see, Mr. Meyer, when you have been free in some particulars and then hold back other particulars you put yourself in a peculiar position. A. I am not going to answer you another single question appertaining to my financial ability. I told you I volunteered this statement to you that I was the owner of the stock in the Consolidated Company; I paid for it my own money, paid for it cash and paid for it and bought it through the stock exchange, my broker. Now, as to what I paid and what I sold it for I won't answer you another single question.

Q. Why not? A. Because I will not.

Q. Who did you sell it to? A. I don't know who my broker sold it to and I won't answer another question on that point.

Q. You say you had it through two dividends? A. I refuse to answer another question.

Q. You said that? A. I did; yes, sir.

Q. How often were dividends paid? A. Quarterly, sir.

Q. Then you held it at least six months? A. Yes, sir.

Q. And you were then—— A. I won't answer another question. That ends it—you have all the income.

Q. Wait until you get the question, at least. You were then a member of the dock board wasn't you? A. I don't know that I was; I tell you this was a year or a year and a half ago.

Q. A year or a year and a half ago—Now, were you not a member of the dock board while you held that stock? A. I can't answer that question without dates.

Q. You know when you were a member of the dock board don't you? A. Yes, I have been a member since the first day of January, 1898.



Q. And you know when you bought the stock? A. I don't know; no, sir. My transactions are so enormous and large that it would take a good fair lawyer to manage them.

Q. Could you ever find out the date when you held that stock? A. No; I am not anxious, I have got my profit.

Q. I am not talking about anxious? A. I am not anxious and I am not going to take the trouble; nor will I.

Q. You will not deny that you held that stock while you were dock commissioner? A. No, sir; under no circumstances, and yet, I may not have held it, but I don't deny it.

Q. Did Mr. Croker know that you had that stock? A. No, sir; he was in Europe at the time.

Q. That helps us to fix the date; he didn't go to Europe until after the various heads of the departments were installed in office? A. Mr. Croker goes to Europe nearly every year. I don't know whether it was this year or last year. I won't answer any more questions.

Q. You may not answer the questions, but you will allow me to put them. We are on good terms, and I will put the questions and you can answer them or not. You take the questions and do with them what you please; it satisfies me whatever you do. A. There are a lot of gentlemen here who would like to go to the Raleigh show this afternoon.

The Chairman—This comment is entirely uncalled for from Mr. Meyer.

The Witness—I am sorry to keep you.

The Chairman—You need not express any sympathy for us.

The Witness—You don't need it.

By Mr. Moss:

Q. Mr. Croker went to Europe last year, didn't he? A. Yes, sir.

Q. But he didn't go to Europe while the great campaign for the mayoralty was being fought, did he? A. No, sir.

Q. He stayed here and conducted the campaign? A. Yes, sir.

Q. As the head of the party? A. I don't know.

Q. You look to him as the head of the party, don't you? A. No; we look to the executive committee.

Q. I understand, but don't you look to him as the leader? A. I recognize him as the head of the Democratic party, not of the city of New York, but as a larger——

Q. You look to him as a larger head than I had in mind. A. Yes, sir.

Q. And you are a loyal fellow? A. Always.

Q. And a loyal partner of his? A. Yes, sir; and those before me too.

Q. So that he was here during the campaign, worked here through it and you helped him? A. Yes.

Q. And then he went to Lakewood and there put the slate through, didn't he? A. You say so; I don't know; I didn't follow him.

Q. You were appointed? A. I didn't go to Lakewood but once in my life.

Q. You were represented by some one at Lakewood? A. It was all done here in regard to that part of it.

Q. They ran right over until January, didn't they? A. I was lying on the surgeon's table about January with an operation.

Q. But it ran over to January; all these meetings? A. I don't know; I was sick at the time, under an operation; in the hands of four doctors.

Q. Mr. Croker did not leave for Europe until after the heads of departments were all in their positions, did he? A. I don't think he did; no, sir.

RICHARD CROKER, recalled for further examination, testified as follows:

By Mr. Moss:

Q. Mr. Croker, you said yesterday that if it should be proven that you had ever received any dishonest or dishonorable money in the affairs of the city you would allow your right arm to be cut off? A. Yes, sir.

Q. Well, don't you think it was a peculiar proposition to be made in this enlightened and civilized community? A. No, I do not.

Q. You didn't expect hardly that any tribunal would sentence you to have your arm cut off, or that any official authority would allow you to part with your good right arm, did you? A. No; if they are willing to do it, they could do it.

Q. But you didn't hardly believe there was anyone to carry that out, did you? A. No.

Q. Are you willing to make the proposition that if dishonorable money or dishonorable transactions are laid at your door you will part with your fortune and part with your liberty? A. Yes.

Q. That is more to the point and more to the purpose. You are willing to say that, are you? A. Yes, sir.

Q. I was led to put that question, Mr. Croker, because of your suggestion early in the examination yesterday that there wouldn't be any playing to the galleries, and it appeared to me that your answer was subject to that criticism but now we have it down on a business basis and in a position where it really amounts to something and that you and I recognize? A. Yes, sir.

Q. You are acquainted with a gentleman named John Kelly, Smiling John Kelly, are you not? A. Yes, sir.

Q. He is a gambler, isn't he? A. No, sir.

Q. Has been, hasn't he? A. No, sir.

Q. Hasn't that been his reputation? A. No, sir.

Q. Isn't he a member of the firm of Naughton & Company, contractors? A. I don't know that, no, sir.

Q. Don't you know he is interested in that concern? A. I have heard he is. I am not positive.

Q. Did you ever talk with Smiling John Kelly about the firm of Naughton & Company, contractors? A. I don't remember.

Q. How often have you seen Mr. Kelly within the last six months? A. He is away now, for the last two months, I believe; I haven't seen him in the last two months at least; probably I have seen him half a dozen times in the other four months.

Q. Isn't Mr. Kelly practically your representative in the firm of Naughton & Company? A. No, sir.

Q. Have you not received moneys from the firm of Naughton & Company or their business matters in which they have been engaged? A. Never one dollar?

Q. Directly or indirectly? A. Directly or indirectly.

Q. Or any member of your family? A. No one that I know of; no, sir.

Q. I understand you to say, when you returned from Europe in 1897, that you were substantially without any means, as to considerable means; you were without any large amount of means at that time? A. I did not testify to that.

Q. I know you did not testify to that, but I understood you have said so? A. No, sir; you may have read it in the World.

Q. Yes, but did you not say so to reporters of other papers that you had come back practically broke? A. No, sir; I never said it.

Q. Isn't it a fact that you were without any large amount of means when you returned to this country in 1898? A. No, sir.

Q. Did you have the stock of the Union Railway at that time? A. I decline to answer that.

Q. Why? A. It is my own personal business.

Q. You didn't have, of course, the stock of the Automobile Company then for it wasn't formed? A. No, sir.

Q. You didn't have the stock of the Air and Motor Power Company? A. No, sir.

Q. The Air and Power Company I should say when you returned for that wasn't formed? A. No.

Q. Your family did not hold any stock in the Roebling Company at that time, did they? A. No, sir.

Q. They did not hold any stock in the construction company, did they? A. What construction company?

Q. The Contractors Supply Company? A. No, sir.

Q. You know what I mean? A. I don't know anything about it.

Q. Don't you know about the Contractors Supply Company? A. No, sir.

Q. Did you ever hear of it? A. I may have heard something about it, but I don't remember.



Q. Do you know that your son, Richard S., is a member of that firm, the Contractors Supply Company? A. I don't know that he is.

Q. Didn't he ever talk with you about going into that company? A. I don't recollect now. He talked to me about different companies people have tried to get them into, but I have let them go on on their own account.

Q. Did he get any money from you to go into the Contractors Supply Company? A. No, sir; not a cent.

Q. I want to ask you this question: Did you give your son Frank a check for \$17,000 to go into the Roebling Construction Company? A. I decline to answer that.

Q. Why do you decline to answer it? A. It is my own personal business.

Q. Did you give your son Frank \$17,000 to go into the Roebling Construction Company? A. I decline to answer. That is my own business.

Q. Your son has made some statements about that, Mr. Croker, which are not perfectly clear in our minds, because they have been differently stated at different times by him, and his veracity is somewhat in question because of his divergent statements, and we have no other purpose than to set your son right in this matter. I ask you to state whether you gave him \$17,000 in money or \$17,000 in a check? A. I decline to answer.

Q. For the purpose of getting into the Roebling Company. A. I decline to answer.

Q. Now, Mr. Croker, this matter has a little different bearing from some other matters that you declined to answer, because it has been proven that the Roebling construction business is intimately connected with official matter in this city? A. Well, I state now that he has never received a contract from the city since he has been in the firm, so that it does not concern this committee at all.

Q. How do you know that? A. I know it; I have heard it.

Q. From whom? A. From him.

Q. Then you do talk these matters over with him, don't you? A. Sometimes. When he went into that I did; yes, sir.

Q. You talked that over when he went into it? A. Yes, sir.

Q. Why do you decline to say whether or not you gave him the money? A. I don't intend to tell my business.

Q. He has told us? A. It is his affair; not mine.

Q. It is for you to corroborate him, if you will? A. I have the utmost confidence in that boy and if you can destroy him in this city, as you are working to do, you can do it. This committee has made a set to destroy my two sons in the city and won't allow them to go into business, but I will keep you busy trying to do it.

The Chairman—I hardly think that statement is justified. It is not the object of this examination.

Mr. Croker—Yes, it is. Go and examine Mr. Platt's family and find out what his boys are in, if you want to be honest.

The Chairman—We will take care of that.

Mr. Croker—You go and examine the people that created you and brought you here to examine us.

By Mr. Moss:

Q. Keep cool, Mr. Croker? A. I am just as cool as you are, and I want to tell you this: The gentlemen who put you here to examine us, go and examine his firm. They are at the bottom of all the corruption in the city; there is more corruption in that firm than anywhere else. They are retained by mostly all the corporations in this city. You go and examine their firm; now, be fair; bring their books here.

Q. Connect that matter you have spoken of in any way with the local government of this city and make it pertinent to this inquiry and I will examine them.

The Chairman—The Committee will carry that out.

By Mr. Moss:

Q. You need not throw any bluffs? A. You need not throw any bluffs at me.

Q. I am not under any retainer, and you know it, for Mr. Platt, or any one else? A. You are looking for it now in your examination when it comes to the Legislature; you expect to be paid

for doing it, and it is that firm that has retained you, not the people.

Q. I am less interested in the compensation for this business than I am in the business itself. The compensation is a secondary matter. You may as well understand it. A. I am only giving you my own private opinion. I didn't come to examine you because you were to examine me, but I will not tell you about my private affairs. You can take any man in this audience to-day and try to examine them upon their private affairs and see if they will answer you.

Q. I think we understand this matter. I have said to you and will say again, you are interested, vitally interested, as the political leader in New York, in what your enemies are doing. Give me the list showing where these people are connected with the city departments and you will see what I will do. A. They are directing all the corporations to-day by retainers; they could not get the city departments; the people must not give them to them. The people put us in charge of the city departments, and, therefore, we are accountable to them, and if you can find a man in the city departments that has done wrong, I will be the first to assist to put him out.

Q. The question is not altogether whether the people in the city departments, but whether you yourself know? A. If I have done wrong, the people in the city departments would discover it, and I would not last ten minutes. I defy any man in the city of New York to make any such statement.

Q. You have made your address, and we have your answer to it, and we are men, looking into each others eyes. I mean what I say as well as you do? A. Yes.

Q. Now, then, let us get down to business. We have discussed the matter and I have allowed the discussion to go on so you might see the relation and see that it is a proper matter in which to inquire? A. Mr. Moss, my son's private business and my own I will not answer at all; that is private, own private affairs; so it is useless to go at them.

Q. You decline to answer on the ground that it would degrade you or convict you of a crime? A. I do not; no, not in the least;

only I don't want to establish a bad example as against principle; that is all; I am not a bit afraid of incriminating myself, not the slightest in anything that I do. I think it is a bad principle. There is no law for it, and no reason for it why you should come down here with your committee to examine my business and my private affairs.

Q. You have already said enough on that point. You are simply reiterating your previous statements and that, of course, is waste of time? A. Yes.

Q. The point of the thing is this, Mr. Croker: You are the leader of this organization on your own statement and you are conducting the organization not merely for political purposes, but for what may properly, as you put it, come out of it in the way of personal benefit. A. That is not so.

Q. The city makes contracts. The city has departments which oversee the buildings, for instance. There are rival methods of construction and fireproofing, for instance; and when certain methods of fireproof construction has been shut out and then are admitted because there have gone into these concerns at a critical time members of your own family, then it becomes an important question whether those members of your family actually paid for their stock, or whether they were simply brought in because they were your sons. Now, in view of that situation, I ask you once more, and I have made it clear to you; are you still unwilling to testify whether you gave your son money for the purpose of actually buying the stock in the Roebling Construction Company. You are still unwilling to answer? A. I won't answer the question direct, but I will answer what you say.

Q. No, sir, I want an answer direct or no answer? A. That Roebling company had been for competition he is in. He is in a reputable company.

Q. That is no answer. Is that all the answer you are willing to make? A. I don't want to put in the minds of the committee that that company is a parent company is not open to competition; it is, anybody can bid for this thing.

Q. Now, Mr. Croker, you are making a speech again and getting on a side issue. The question is, whether you will state whether



you gave your son the money to actually buy themselves into that corporation? A. I won't answer that question.

Q. Now, then, you have got it distinctly and definitely and no amount of speeches or gallery play will obscure the situation. Now I ask you this question; we notice that at the dinner the other night, the Democratic Club dinner, there were no senators present; no State senators. There were not, were there? A. No, sir.

Q. Why not? A. Because their place was in Albany, at their duty.

Q. And you told them so, didn't you? A. Yes, sir.

Q. They obeyed you? A. I think they did.

Q. They denied themselves the privilege of honoring the memory of Jefferson and eating a good dinner because you told them to stay in Albany? A. Because they owed it to their State and their duty.

Q. Because you told them? A. Because they owed it to their State and their duty.

Q. Do you suppose they would have denied themselves the patriotic privilege of honoring Jefferson and the pleasure of eating a dinner in his honor if somebody had not directed them to forsake these pleasures and patriotic duties? A. They might not have come at all, without telling them.

Q. But you wanted to make sure, and they obeyed you? A. Yes, sir.

Q. And so you lost the pleasure of their company and they lost the pleasure of your company, and we all lost their oratory? A. In the discharge of their duty; yes, sir. I will stand by that.

Q. It is a fact then that you do control the physical movements of the members of the Senate on your side of the House? A. What kind of movements?

Q. Physical movements? A. Physical movements.

Q. Physical movements; yes, sir, do you? A. I don't know what you call physical movements; what do you mean by that. Let me know the meaning of that.

Q. The movements of their bodies? A. No, I don't control their physical movements.

Q. You prevented them from coming down from Albany? A. They can move their bodies wherever they like.

Q. But they could not move them into the Metropolitan Opera House at that dinner? A. They could if they wished.

Q. They were advised not to? A. They took the advice I hope. I hope they did. Probably they did on their own accord, too.

Q. Yes. Have you given any instructions or any advice to anyone concerning a certain Mr. Reddington, an assemblyman?

A. Yes, I have.

Q. What was that advice, and what were those instructions? A. That he ought to be reprimanded for voting for the Astoria gas grab.

Q. And you did that as the leader of the party, didn't you? A. Yes, sir.

Q. And it is your purpose to exercise your position in inflicting discipline upon him as the representative of your organization? A. That is left to the district.

Q. But you have advised it? A. I said it should be done, or ought to be done, yes.

Q. Then your organization and you don't leave members of the Legislature entirely free to vote as they please upon matters that come up, but you observe them and reprimand them and advise them to do whatever is necessary to get them to vote as you and your associates think they should, don't you? A. We expect them to stand by party measures?

Q. Have you not, since January 1, sold Manhattan stock short? A. That is my own business, sir.

Q. Do you decline to answer that? A. Yes, sir.

Q. Why? A. That is private matter of my own.

Q. Would your answer tend to degrade or convict you of a crime? A. No, sir.

Q. Have you not, since January 1, been short 7,000 shares of Manhattan stock at one office on Broad street? A. I just told you I wouldn't answer that. There is no use your asking the question.

Q. I am going to put the question and you save time by answering them or stating your position at once. A. I have.

Q. Don't make speeches, then? A. I told you I wouldn't answer those questions; they are private matters.

Q. Let it go at that. You have answered. Didn't that office decline to execute any more short orders on that stock on your account? A. I decline to answer.

Q. We ask these questions about Manhattan stock because of the movements of the members of your organization with relation to the Manhattan Elevated Railroad, which are matters of general knowledge and will be proven at their proper time. That is the reason for asking this question. I tell you the reason so you may know there is a reason and that the committee may know what I should charge on your refusal to answer. Did you not sell Manhattan stock in anticipation of an attack upon the Manhattan Company? A. I decline to answer that question.

Q. Upon what grounds? A. Because it concerns my private affairs.

Q. Did you, when you sold your Manhattan stock, know there was going to be an attack made upon it by city departments? A. I decline to answer that.

Q. Did you know that departments of the city government were going to make an attack upon the Manhattan Elevated Railroad? A. I decline to answer that question.

Q. Did you consult with members of the city government and heads of departments with reference to action against the Manhattan Elevated Railroad? A. Against action.

Q. With reference to action against the Manhattan Elevated Railroad? A. I don't remember it.

Q. Did you consult with members of the city government with reference to the health conditions of the Elevated Railroad? A. No.

Q. With reference to drip-pans? A. No.

Q. With reference to the occupation of Battery Park? A. No.

Q. Did you not talk with any members of the city government? A. No, sir.

Q. You say "no" before my question is finished. You don't know what I am going to ask you—did you not talk with any

members of the city government about the Manhattan Railway, the elevated railway, prior to the attacks that were made upon it? A. I don't recollect it.

Q. You don't recollect? A. I don't recollect doing it.

Q. You knew there was going to be a movement made against it, didn't you? A. No, sir.

Q. Were you a stockholder in the Manhattan Railway at the time, or within two months before the attack was commenced?

A. I decline to answer.

Q. You don't decline upon the ground that it would tend to degrade or incriminate you, do you? A. No, sir, just to keep in line with my former statements.

Q. Are you acquainted with Mr. Andrew Friedman? A. Yes, sir.

Q. Very well acquainted, are you not? A. Pretty well.

Q. He is an associate of yours in the Democratic club? A. Yes, sir.

Q. Pretty nearly every night there with you, isn't he? A. Yes, sir.

Q. He has received some important receiverships, hasn't he? He was receiver of the Olympia, wasn't he?

Q. Don't you know that he has received appointments as receiver from the judges? A. No.

Q. You never discussed that with him? A. No.

Q. Did you know that Mr. Friedman had lost money in the Manhattan Elevated railroad stock? A. No, sir, I am not certain whether he did or not.

Q. Did he talk with you about it? A. No, he didn't say anything to me about it; I have heard some talk about it, but I have paid no attention to it.

Q. Did you yourself lose money in that stock? A. I decline to answer.

Q. Upon the same ground or absence of ground? A. I decline that—the same thing over again.

Q. Did you have a talk with George Gould at Lakewood shortly after the success of the Tammany ticket for Mayor? A. I don't remember.



Q. You don't remember; don't you remember his coming down to Lakewood to see you? A. No, I don't think he did.

Q. Didn't you discuss with him the proposed extension of the Manhattan Elevated Railroad? A. I don't remember.

Q. You don't remember? A. No.

Q. At that time, January, 1897, you were in friendly relations with Mr. Gould were you not? A. Yes, friendly yet, so far as that goes.

The Chairman—Do you mean 1897 or 1898?

Mr. Moss—1898, I mean, January 1, 1898.

Q. Did Mr. Gould visit you at Lakewood, January, 1898? A. Don't think he did; don't remember now.

Q. You don't remember. A. I don't believe he did.

Q. Did you have any conversation with them about the proposed extension of the Elevated Railroad? A. I don't remember having any.

Q. When was it that you spoke to Mr. Gould about allowing the pipes of your power company to be suspended from the Manhattan structure? A. I cannot tell you the exact date now.

Q. Get to it as closely as you can? A. Five or six weeks ago I think.

Q. Five or six weeks ago? A. I can't tell the exact date.

Q. At that time there had not been any accusation that the structure was unsafe by the City Department, had there? A. I don't remember whether there had or not.

Q. You really did want the privilege of stringing or hanging these pipes from the structure, didn't you? A. Yes.

Q. How much did you offer to pay Mr. Gould for that permission? A. I did not make any offer at all to him, that I know of; the company did that; the lawyers.

Q. What sum was offered? A. I don't recollect what sum it was.

Q. Wasn't it \$10,000? A. I believe it was; I ain't sure.

Q. And that included the hanging of pipes carrying compressed air along practically the whole length of the structure? A. Yes, sir; that is what we wanted.

Q. That is what you wanted wasn't it? A. Yes, sir.

Q. You had no doubt then about the safety of the structure, had you? A. I don't know; I didn't examine it.

Q. You had no doubt of it, had you? A. I had no idea one way or another.

Q. There had doubts been expressed to you that the structure was perfectly safe? A. I could not tell you; I didn't examine it. I am not an expert.

Q. I know; but you and your company and its engineers were perfectly satisfied that it was a feasible plan? A. Yes, sir.

Q. And you were willing to pay something for it? A. Yes.

Q. Mr. Croker, didn't Mr. Friedman and some other of your associates and yourself, prior to that time,

Q. And didn't you lose money upon it? A. I don't know anything about it.

Q. Didn't you yourself use money upon it? A. No, sir.

Q. You did not yourself? A. No, sir.

Q. Were you short of the stock about January 1st? A. I decline to answer that question.

Q. How is it you are willing to say that you did not lose money and you are not willing to say you were not short of the stock?

A. I just said that to please you.

Q. Just to please me? A. Yes.

Q. And you are not willing to say any more to please me?

A. No, not on that score. It is a personal matter.

Q. Perhaps by and by you will be willing to please me a little more, so I will be patient with you and we will come back to it. Did Mr. Gould consent to the proposition? A. They were negotiating for it at the time, I believe, when the board of health reported it.

Q. They were negotiating when the board of health reported it? A. Against the struction condition of the road.

Q. What induced the board of health to report? A. I don't know.

Q. Did you ask the board of health to make an investigation?

A. No, sir.

Q. Mr. Croker, wasn't the board of health asked to make that investigation for the very purpose of determining whether the structure was safe to carry your pipes? A. No, sir; not to my knowledge.

Q. Might it have been so? A. I don't think so.

Q. Was not the investigation ordered for the purpose of compelling the Manhattan Company to allow that privilege? A. No, sir.

Q. How do you know that? A. Because negotiations were going on and were almost completed at the time.

Q. Of course, you say negotiations were going on, and while these negotiations were going on these proceedings took place, a serious proceeding. Now, if there are so many things you don't know and so many things you are not willing to testify to why do you say it was not for the purpose of compelling the railroad to accede to your desire? A. It is not true.

Q. How do you know? A. Because I have got a paper right here to show it.

Q. Let me see it? A. It was unexpected to me entirely. The board of health reported. The board of health's report came out after that.

(Witness produced letter.)

Mr. Moss—He is entitled to have this read and I will read it.

Letter read, as follows:

“MANHATTAN RAILWAY COMPANY.

“Vice-President's Office,

“195 Broadway, NEW YORK, *January 19, 1899.*

“JOSEPH H. HOADLEY, ESQ., *President New York Auto-truck Co.,*  
253 Broadway, City:

“Dear sir—Referring to your proposition of recent date to furnish this company with compressed air power, by means of pipes, not to exceed two and one-half inches ( $2\frac{1}{2}$ ) in diameter, and not exceeding to any number, attached to each of these structures, for the purpose of furnishing power for riveting, painting, cleaning elevator lifts and hoists and such other use as may be re-

quired, it is hereby accepted, subject to all tests, which will be required by this company's engineering departments, to determine the style and quality of all appurtenances, together with the ratification of contract by the board of directors.

"Yours truly,

"ALBERT STITT,

"*Vice-President.*"

Q. Now, Mr. Croker, this letter which you have offered me does not cover the general matter of suspending pipes under the road for the use of your company. It is simply a proposition that they will take from your company, by small pipes, power for the purposes of their own uses? A. Ours were small pipes; there is no difference to that.

Q. Yes, but this is not an application or acceptance of an application to give to you a franchise, but it is rather an acceptance of a proposition to use your power? A. Yes, that was what we wanted.

Q. It is a contract between the two that they would use the power which you were to supply to them through two pipes. A. Two 2½-inch pipes.

Q. But you wanted the right to hang your pipes for the purpose of supplying power to anybody, didn't you? A. No, sir.

Q. Only to them? A. Only to them.

Q. And you were willing to give them \$10,000 for the privilege of using your power? A. Yes, sir.

Q. You were to pay them \$10,000 to use your power? A. That power was not to run their road; just to rivet and do things of that kind.

Q. That is what you want us to understand—that you were to pay them for the privilege of furnishing them your power? A. Put these pipes up.

Q. To furnish your power to them to do riveting and hoisting? A. Yes, sir.

Q. Does not that strike you as a rather peculiar proposition? A. Not at all.



Q. To pay them for doing their work? A. We draw from that power; that is our main pipes for our trucks.

Q. You would draw from that power? A. And rent them power out of it.

Q. That doesn't say so? A. No, sir.

Q. Your contract doesn't say so? A. That is the same thing. They are to use whatever power they may require out of those pipes—that is the idea of it.

Q. You are stating the idea of it, but there is the contract? A. I think both companies understand themselves on that.

Q. Now, about this Air and Power Company, Mr. Croker, I understood you to say that you have no stock in it? A. I didn't say any such thing.

Q. Have you any stock in it? A. That I decline to answer.

Q. Did you pay for your stock in the Air and Power Company? A. I decline to answer.

Q. Did you contribute any money to the Air and Power Company? A. I decline to answer that.

Q. Did you not say yesterday that you had no stock in it, but you could buy all you wanted of it? A. I don't remember—if I did I want to change it.

Q. Now, Mr. Croker, you were in as complete possession of your faculties yesterday as you are to-day, weren't you. A. Yes, sir.

Q. And you meant to be truthful yesterday, didn't you? A. Yes, sir.

Q. How could you then have said yesterday that you had no stock in that company, but you could buy all you wanted to—all you could pay for? A. I suppose I can.

Q. But how do you explain your statement that you had no stock in the company, made yesterday? A. I say I can buy it if I wish.

Q. Why did you say yesterday you had no stock in it? A. I say so now.

Q. Do you say so now? A. I can buy all I want.

Q. You declined to answer a moment ago? A. I do now.

Q. Do you decline to answer now? A. Yes, sir.

Q. Will you swear you have no stock in the Air and Power Company? A. No, sir, I won't swear it.

Q. Why did you swear it yesterday? A. I say I decline to answer these personal matters.

Q. Why did you swear it yesterday? A. Swear what?

Q. That you had no stock? A. I would like to read that.

Q. Why did you swear about three minutes ago that you had no stock in that company? A. Read that.

Q. Why did you swear about three minutes ago that you had no stock in the Air and Power Company? A. I didn't say so.

Q. If you said so you didn't mean it? A. I didn't say so; I don't remember saying so.

Q. You don't remember saying so? A. No, I don't.

Q. And your position now is that you will not own you have stock? A. I will not tell my personal affairs.

Q. You will not deny it? A. I will not affirm or deny it, either one.

Q. How do you know you can buy all you want at any time? A. I think so, is all.

Q. What grounds have you for thinking so? A. I can buy stock in any company.

Q. Can you? A. There is very few companies you cannot buy in.

Q. Can you buy stock in the Roebling Company, the parent company? A. I don't know.

Q. Have you ever inquired? A. No.

Q. Have you ever considered the possibility of the Roebling Company furnishing the wire for the new bridge to be constructed? A. No, I have not.

Q. Did you consider that when your son went into the Construction Company? A. No, I never thought of it.

Q. Are you interested in bridge building? A. Not much, no.

Q. Are you anxious to see bridges built over the East River here? A. Yes.

Q. Isn't that the policy of your company? A. It would be a good thing, yes.

Q. Isn't that the policy of your organization? A. Yes, I think it is.

Q. And didn't you want your son to get into the parent company of Roebling when he got into the Construction Company? A. I never knew anything about the parent company.

Q. Didn't you have an idea that the Roebling Company would have a good chance to furnish the wire of the bridges, which your organization is so strongly urging? A. No, sir, I never thought of it.

Q. Your son testified that when he came back and said he was actually going into the Construction Company, that you expressed your surprise and disappointment that he did not get into the main company; did you so express your surprise? A. Yes, I think I did.

Q. You wished him to get into the main company? A. Yes.

Q. Now, wasn't that because the parent company had large facilities for making and supplying wire for bridges? A. Not at all.

Q. What was there about the main company you thought so desirable? A. It was the Roebling Company, known all over the world, is all.

Q. But with your organization crying for bridges, and your son the Roebling Company making steel wire, didn't there occur to you that there might be an opportunity for the family there? A. Not at all; never thought of it.

Q. You never thought of it. Now in this Air and Power Company you hope to supply compressed air to the cars of the Metropolitan Railway, don't you? A. No, sir.

Q. No? A. No.

Q. Hasn't that been under consideration? A. No, sir.

Q. You said yesterday, there was a wide field in your judgment open to that company? A. Yes, sir.

Q. What is that field? A. For business trucks of all kinds.

Q. Supplying it to the other auto-mobile trucks? A. Yes.

Q. Have you had consultation with people interested in the street railways about the use of compressed air as motive power? A. No, sir.

Q. Haven't you expressed yourself in public in favor of the practicability of compressed air as a power in street cars? A. Yes, sir.

Q. Exactly; you have then the idea that compressed air is the right thing to use for street cars? A. It may not be just at this time, but I think it is coming.

Q. You think it is coming? A. Yes.

Q. And your company with a capital of \$10,000,000 is prepared to furnish that power when it is wanted? A. We have no right to furnish the street cars; we haven't got that part of it.

Q. Who has that? A. That belongs to the Metropolitan Railway Company.

Q. But you can make a contract with the Metropolitan Railway Company, can't you? A. They have rights and we have not.

Q. Of course, but don't you consider it possible that you can supply that power to the railroad if you can make a proper connection with it? A. We have no right to supply it.

Q. You have no right unless you agree to supply it? A. They can't take it; we don't own it.

Q. You don't own it? A. The Metropolitan Traction Company own the right.

Q. They own the railroad and cars? A. Yes, and the rights; the right to run their cars and we do not.

Q. Can't they take the air from you if they want to? A. No, sir; they build their own air. They can if they want to, of course.

Q. You have friends in the Metropolitan Railway? A. Yes.

Q. Lots of them and good friends? A. Yes, but we haven't the right.

Q. We agree now they can do it if they want to. Do you own stock in the Metropolitan Railroad? A. I decline to answer.

Q. Have you secured for the Metropolitan Railroad Company any concessions or any privileges from anybody? A. Not that I know of.

Q. Have you assisted them in getting privileges and concessions? A. Not that I know of.



Q. Will you tell me how it is, Mr. Croker, that the Metropolitan Street Railway has been obliged to construct the electric conduits all along its road without paying the city for the franchise?

A. I don't know that.

Q. Do you know that it has been done? A. I believe it has.

Q. What do you think about the department of yours that has permitted the doing of that? A. I don't know but what they have paid, for all I know.

Q. You don't know but they have—have you ever inquired into that subject? A. No, I have not.

Q. If you thought any wrong had been done there you would be the first to correct it, wouldn't you? A. Yes.

Q. As the leader of the party? A. Yes.

Q. Would the fact of your having a large amount of Metropolitan stock in your own possession prevent you from doing that? A. No, sir, if I had it it would not.

Q. Have you yourself received charges because the department has not interfered with the placing of these electric conduits when the motive power was changed here recently? A. No, sir.

Q. Are you chairman of the executive committee of the Air and Power Company? A. Yes, sir.

Q. How can you be chairman of the executive committee of that company if you have not stock? A. Has there ever been a chairman had no stock.

Q. I am asking you how you can do it? A. I didn't say I did it.

Q. I ask you how you have succeeded in becoming chairman of the executive committee of a corporation actually formed without having some stock? A. I decline to go into my personal private affairs.

Q. Isn't your company now planning to run cars on the Twenty-eighth and Twenty-ninth street cross-town line with air supplied by your power? A. No, sir.

Q. Isn't the Metropolitan road preparing to do it and to use the air from your company? A. No.

Q. Have you never heard of that? A. No, sir; it is not my company at all.

Q. What is not your company? A. That you are talking about.

Q. The Air and Power Company? A. No, sir.

Q. What company is it? A. I am in the Auto-Truck Company.

Q. But you are in the Air and Power Company too, aren't you? A. No, sir.

Q. Aren't you chairman of the committee? A. Not of the Air and Power Company.

Q. Isn't the Air and Power Company the company we have been talking about all the time? A. You have, but I have been trying to correct you, but you wouldn't be corrected.

Q. If you think that is so upon the record you are entitled to your views. Now is the Air and Power Company in the Syndicate Building? A. No, sir.

Q. Didn't you say so yesterday? A. No, sir.

Q. Didn't you answer that it had a capital of \$10,000,000? A. No; I said the Auto-Truck Company had.

Q. Is the Auto-Truck Company supplying or intending to supply air and power? A. No, sir; only to themselves, for their trucks.

Q. What is this company that you have been talking about for two days, that had a great future before it in the supplying of power? A. The Auto-Truck Company.

Q. In the supplying of power? A. Yes, sir.

Q. Was it the Auto-Truck Company that wanted to string its pipes under the Manhattan structure? A. Yes, sir.

Q. Is that the company? A. Yes, sir.

Q. The company you had in mind all the time? A. Yes, sir.

Q. Have you stock in the Air and Power Company? A. No, sir.

Q. I asked you about that a while ago and you declined to answer? A. You have the wrong company.

Q. My questions were perfectly plain about the Air and Power Company, Mr. Croker; my memory is good upon that point and you have distinctly sworn your connection with it and to the

stock and to the advantages and to the prospects of that company? A. You have the two companies mixed up.

Q. Perhaps you have, but I have not? A. I don't belong to any air company at all, other than the Auto-Truck Company.

Q. Did you ever belong to the American Power Company? A. No, sir.

Q. Did you ever belong to the American Air and Power Company? A. No, sir. You have it mixed a little.

Q. No; I have nothing mixed; it is evident you have it mixed yourself. A. No; I know what I have myself.

Q. Now, let me see if we can understand about this company. I read you from the verbatim report of the proceedings yesterday: "Q. You are a member of the Air and Power Company? A. Yes. Q. What is the capital stock of that company? A. Ten million. Q. Ten million? A. Yes. Q. How much of that stock do you hold? A. Well, it hasn't been settled up yet; it is not on the market at all. Q. How much have you subscribed for? A. None at all. Q. How much is to be your proportion? A. I cannot tell you. Q. You ought to have some? A. Yes, sir. Q. You are taking a very lively interest in the Air and Power Company? A. Yes, sir. Q. And you expect to have your hand in it? A. I expect that to be a good thing. Q. And this Air and Power Company will supply air to anyone who wants it, air and power all over the city including public buildings? A. There is no chance to use it in public buildings that I know of. Q. Can't you devise some way of making it useful in public buildings? A. I have not got to that yet. Q. It is possible, isn't it? A. I don't know. Q. Aren't you considering it? A. I am not the inventor. Q. Who first proposed to you that you should enter that company? A. Well, Mr. Hoadley himself; Mr. Knight, the engineer and Mr. Hoadley. Q. Did he propose that you put money into it? A. I decline to answer that question; I said before I wouldn't answer any questions concerning my private affairs." Q. Mr. Croker, was that testimony true? A. It is true, so far as the designation of the name—the name of the thing in place of—it has

been organized as the Auto-Truck Company; that is the organization of the company.

Q. You were especially cool and calculating yesterday and questions were put to you carefully, and the name of that company was given to you three times and no other company was mentioned, and do you mean to say that with all of your appearance of calmness and readiness to answer questions that you were lead to testify to what was not true? A. It is only a question of the name of the thing—the Auto-Truck Company, of course, is to be run by air and you can call it by whatever name you wish; it don't make any difference to me, but the name of the company I am interested in, and the only company I am interested in, is the Auto-Truck Company.

Q. Do you feel that that answer is a sufficient explanation when you stated the stock to be \$10,000,000, in connection with the naming of the company? A. Yes, it is; that is what it was organized under—ten million capital, the Auto-Truck Company.

Q. The American Air Power Company is a local company to run air power of the International Air Power Company, is not that true? A. That company has been organized long ago, and is owned by the Metropolitan Traction Company.

Q. The Auto-Truck Company is simply one of the ramifications of that company? A. Yes, sir; only we have the right for our tracks is all, it is called the Auto-Truck Company.

Q. Are you not a member of the International Air Power Company, the parent company of all these companies? A. I decline to answer that.

Q. Didn't you understand, when I spoke to you about the Air and Power Company, that it was the International Company? A. That is a different company.

Q. When you testified yesterday? A. That is a different company; that goes all over the world.

Q. What is the capital of that company? A. I can't tell you that.

Q. How much stock have you in the Auto-Truck Company? A. I decline to answer.



Q. Are you the chairman of the executive committee of the Auto-Truck Company? A. I am.

Q. Did you pay for your stock in the Auto-Truck Company? A. I decline to answer.

Q. You have talked about the Auto-Truck Company for publication, haven't you? A. Before this.

Q. Yes; you have not made that sufficiently a private matter to keep it out of the newspapers, have you? A. I have not talked particularly, unless someone talked with me.

Q. You have talked about it and seen it reported in the newspapers? A. Yes, sir.

Q. You have talked it for the world, and it has got into the newspapers? A. For "The World?"

Q. I say the world; I do not mean the newspaper—you have opened your mouth to the world about the prospects of your Auto-Truck Company? A. Yes, sir.

Q. Then why do you have this sudden and peculiar reluctance to discuss what you have already published? A. And tell the business of the company to you.

Q. To tell your relations to the company. A. To tell my private business to you?

Q. Yes. A. I object to that.

Q. Of course you do at this time, Mr. Croker, it is significant that you make an objection at this time? A. I would not tell any man living my private business.

Q. When one man who holds no official position and is in receipt of no official salary controls the city departments, makes the offices, dictates the policy of the officers in all directions and then gets into companies without having to pay anything for his stock—— A. How do you know that?

Q. I want to find out. A. I won't let you know.

Q. You won't let me know? A. No.

Q. You see the position you are in, don't you? A. Telling you my private affairs.

Q. Your private affairs are not private, Mr. Croker, in that particular? A. Yes they are.

Q. We have a right to know. A. No, sir.

Q. We have a right to know how a man that controls the municipal actions is able to go and put his hand on business men and put their stock in his pocket for nothing. A. You don't know that.

Q. Will you tell me—have you done it? A. I won't tell you whether I have or have not; that is my private affair.

Q. You dare not say you have not done it? A. Dare, no; I won't tell my private affairs.

Q. You dare not. A. I won't tell you my private affairs.

Q. Now put it down—that is an answer, you have a right to cloak them in your mind with the designation “private affairs?”

A. Yes, sir; “private affairs” that don't concern you any more than yours concern me. You are here on partisan business, to help your party.

Q. That is your old speech that I have let you make so many times that we all have it by heart. You cannot say you have not had your opportunity to make your play to the galleries, as you charged me yesterday? A. Yes, you are playing them pretty good.

Mr. Moss—I read from the Tribune of January 16th:

“When Mr. Croker was seen at the Democratic club last night he said that he was interested in the New York Auto-Truck Company, and that the company was going to do a general trucking business in the cities of New York and Jersey City, and suburbs adjacent. Mr. Croker also said that in his opinion the horse, as a pet, for pleasure driving, speeding purposes and as a ‘play toy’ in general would, for all time, hold a place in the affections of mankind, but for business purposes, the carriage of freight, passengers and drayage along the wharves and piers and in the streets of the larger cities and towns, he must recede before the progress of civilization and the requirements at the present inventive age. ‘As population becomes more dense,’ he said, ‘while the business portions of our communities cannot for obvious reasons readily be expanded, the public welfare requires a relief from the congestion of the streets, and every measure possible taken to aid in the sanitation of cities.’ In the substitution of auto-trucks and vehicles for the workhorse, Mr. Croker believes a great aid has been found in the solution of

these vital problems. The carting of coal in New York city, while representing an annual expenditure of \$7,500,000, is only a very small part of the enormous amount expended in New York for the handling of freight and goods. Our New York Auto-Truck Company is composed of solid business and mechanical men."

Q. That is a fair statement of your conversation, isn't it? A. Very fair.

Q. Now, Mr. Croker, it will take a lot of money to launch that company into business, won't it; the building of plants and buying all that is necessary to operate it; it will take a lot of money, won't it? A. I presume it will.

Q. It is one of those colossal enterprises which startle even us who are used to the rapid advancement of science in this century; it is colossal, isn't it? A. I expect it will be.

Q. It looks like one of those things that is going to be noted for many decades to come as an advance in civilization; you look at it in that way? A. Yes.

Q. And isn't it a fact, Mr. Croker, that simply because you are the leader of Tammany Hall, and because as such leader you control the city departments, you have been taken into that company and given a large amount of stock to secure your influence; isn't that a fact? A. No; not at all; you are away off.

Q. It is a fact? A. You are away off.

Q. I know. Now, you are beginning to talk. What is the fact; have you got any stock? A. It has nothing to do with the city departments at all. It has nothing to do with the city government.

Q. But have you got any stock? A. That I decline to answer.

Q. Did you pay for it? A. You have been repeating that four or five times.

Q. Yes, I am going to ask it for awhile? A. You keep on. I can answer it as long as you can repeat it.

Q. Now hold on; the question is answered. Wait for another. Mr. Croker, are you an engineer? A. Yes, sir.

Q. What kind of an engineer? A. I served my time as a mechanical engineer.

Q. But you are not a civil engineer, are you? A. No, sir.

Q. Or have you ever graduated from any technical school?

A. No, sir.

Q. Just what work did you do as an engineer? A. Locomotive.

Q. Then you were acquainted with locomotives? A. Yes.

Q. Did you run locomotives or build them? A. Built them.

Q. What part of the work did you do? A. All parts of it.

Q. So you are a practical locomotive builder? A. Yes, sir.

Q. Did you intend to use your abilities as an engineer in this company? A. No, sir.

Q. You are not expected to, are you? A. No.

Q. And what you knew about building locomotives hardly applied to this new and wonderful power, does it? A. It has something to do with it.

Q. Something, but not very much? A. Something; yes.

Q. Are you a capitalist, Mr. Croker? A. No, sir.

Q. You are not? A. A capitalist; what do you mean?

Q. Worth over a million dollars? A. No, sir.

Q. You are not? A. No, sir.

Q. You haven't got a million dollars? A. I decline to go into my personal affairs.

Q. Will you swear you have not? A. I decline to go into my personal affairs.

Q. Were you drawn into this company for the purpose of contributing money to help pay the running expenses and cost of plans and construction. Was that the purpose—to draw on your bank account? A. I can't tell you the purpose.

Q. It wasn't put to you that way, was it? A. I can't tell you the purpose.

Q. You haven't paid out any money to build plant or pay for the initial expenses, have you? A. I decline to answer that question.

Q. Isn't it a fact, Mr. Croker, that these gentlemen who invented and who have promoted this enterprise would naturally be under the supervision of city departments in some way? A. No, sir.



Q. The health board have a right to inspect their work? A. Inspect their works?

Q. Yes, and see what they were doing. A. It all depends on where their works are.

Q. It depends on where their works are? A. If they were in the city.

Q. If they were in the city of New York they would be liable to inspection? A. Yes, sir.

Q. And whether they used soft coal or not, would be considered? A. Yes, sir.

Q. And whether their works were sanitary, would be considered? A. Yes.

Q. And whether the method of control and containing of that power was safe for human life would be considered by the building department? A. Yes, sir.

Q. It is a very great power, isn't it? A. Yes.

Q. And if not properly controlled it would be liable to explode and do damage, wouldn't it? A. No, sir.

Q. There is contained power enough in it to do large amounts of heavy work, isn't there? A. Yes, sir.

Q. And so with such power as this it would be in its operations in the city of New York subject to the oversight of the health department at least, wouldn't it? A. Yes, sir.

Q. And it would be in the power of the health department to make trouble for that department if it happened to be corrupt and anxious to make a strike, wouldn't it; it would be possible to make trouble? A. They have nothing to do with strikes or corruption.

Q. No, the department hasn't? A. The health board has not.

Q. The health department, under some other head than the present one, if it were corruptly inclined, could make trouble; the health department could make trouble in the operations of the Auto-Truck Company, couldn't they? A. Not unless there was danger.

Q. I know that they could say there was danger? A. All the jurisdiction they have is in regard to danger.

Q. They could say there was danger, couldn't they? A. If there was danger they would say it, probably.

Q. And they could say it if they wasn't, couldn't they? A. If they wished to do wrong they could.

Q. They could say what they did to the Manhattan railway, couldn't they? A. I don't know about that.

Q. Resolutions could be passed in the municipal assembly affecting this business, couldn't there? A. Yes, sir.

Q. And resolutions might be passed in many departments that would affect this business? A. I don't believe they could pass any in the assembly to affect it.

Q. And that, you think, because the assembly has failed to pass some resolutions; but resolutions could be brought up, couldn't they? A. Concerning the trucks?

Q. Yes. A. I don't know; I don't believe it concerns the city at all.

Q. You don't believe it as a matter of fact, but as you answered a moment ago, if they wanted to do wrong, they could make trouble, couldn't they? A. Any company in New York could make trouble if they had a dangerous concern to blow up a house, or something of that kind.

Q. Of course, but you have heard in your long experience of corrupt officials; corrupt heads of the building department not necessarily under your administration making unnecessary trouble for builders and merchants. You have heard of that? A. Yes, sir.

Q. You have heard that former superintendent of buildings was unnecessarily annoying, haven't you? A. That was the report.

Q. And you believed it, unnecessarily so, didn't you? A. I don't know whether it was unnecessarily so; I know that was the general report.

Q. Now haven't your associates in the Auto-Truck Company brought you in there and presented you with a substantial block of stock in order to secure your mighty influence in preventing the city departments from interfering with them? A. I decline to answer.

Q. Why do you decline to answer that? A. Because it is my own personal affairs.

Q. Then if it be so, that because of your power in this community you have been brought in and settled on that company to do your share in eating up its profits simply because you are the political boss of the city, that is your affair and not ours? A. That is your version, not the people's.

Q. All that is not to be told? A. You are trying to make the people believe that is true, but you can't.

Q. You won't tell us whether it is so? A. That is all my private affair.

Q. All that is a private affair of yours? A. Yes, sir.

Q. All right. It is rather interesting to see how much power you have and what you think you have a right to do with your power, and I tell you that is one reason why the examination has been conducted as it has been, to allow you to tell, in your own way, freely and openly and without unnecessary probing just what power you have, just what you think you have a right to do with it, and what you intend to do with it, and I think we have you on the record pretty well, Mr. Croker. A. I am glad you think so.

Q. Why are you glad I think so? A. Because I suppose it pleases you.

Q. You are glad to have anyone think of you in that way if it pleases them? A. If it pleases them; yes, sir.

Q. And that applies to the whole community, doesn't it? A. If it pleases them.

Q. Were you not given \$140,000 of that company's stock? A. I decline to answer.

Q. Without the payment of a dollar? A. I decline to answer.

Q. Will you deny it? A. I decline to answer the question.

Q. Will you deny it, yes or no? A. Not yes or no, no.

Q. You decline to go on record when the matter is presented to you as fairly and as fully as it has been? A. I decline to answer the question.

Q. And before the people you make that declaration now? A. I decline to answer that question. It has nothing to do with city affairs at all.

Q. Are you interested in the American Air Power Company?  
A. No, sir.

Q. But it is connected intimately with the business of the Truck Company that you have just been talking about? A. No; not at all.

Q. The same people are interested? A. Yes.

Q. The same people are interested, then; your associates are?  
A. Yes, sir.

Q. Are not all your political associates interested in that company? A. The Auto-truck?

Q. No, the American Air and Power Company? A. Not as I know of; no, sir.

Q. Do you know that a resolution passed in the municipal assembly giving the American Power Company the right to lay and locate water pipe for the purpose of conveying salt water from the Hudson river across to the factory of the American Air and Power Company? A. Yes, sir.

Q. Was anything to be paid for that privilege? A. Yes.

Q. How much? A. I don't know how much. It was fixed by the board of the sinking fund commissioners; they fixed that amount.

Q. Do you think that the Metropolitan railroad should have paid for the privilege of putting in electric conduits alongside their tracks? A. I have no opinion on that either way. I believe they do pay a regular rent now.

Q. I know, but a large primary payment for the privilege of installing it in their new subways? A. I don't know but they do.

Q. I ask you whether they should, as a matter of public policy, should any important franchise be given away without giving payment for it to the people? A. No, I don't think it ought.

Q. And if that has been done in the case either of the Metropolitan or Third Avenue railways does it accord with the prin-



ciples that you and your organization stand for? A. No, sir, it don't. If they have not done it—I don't know but they have.

Q. The officials that have permitted that to be done, if it has been done, ought to be subject to your censure as the leader of the party had they not? A. Not mine; no, sir.

Q. Not yours? A. No, sir; the officials.

Q. But you have censured an assemblyman, a common, plain assembly, if I may use such expression. In the presence of Mr. Croker, all things are relative, and when the king is on the stand, we are simply plain, common people, every one of us. A. They occupy the highest offices of the State, these people are elected by the people.

Q. If you would censure an assemblyman because his mind would not lead him to vote the way you wanted him to on a certain bill, why wouldn't you censure the heads of departments or municipal assemblymen for allowing a valuable franchise like that to be given away for nothing? A. I don't know that it has been.

Q. You have said you would not censure them if you did? A. I said my own person; I have no vote on that; the departments have.

Q. You are crawling, Mr. Croker, that is not worthy of you. In this building on Park row, Mr. Croker, your company is on the twenty-fifth floor, isn't it, or will be? A. I expect it will be there.

Q. And there will be other friends of yours all around there, won't there? A. I hope so.

Q. What city departments will be in that building right under you and around you? A. I can't tell you.

Q. Don't you know that a large number of city offices are to be moved into that building? A. I believe they are.

Q. And do you know that they are paying or will pay there a much larger rental per square foot than was offered to them on the building on Duane street? A. I don't know that.

Q. Have you not heard that? A. No, sir.

Q. And that is right in the building that you are to occupy; your mind takes in patronage,—that we discussed the other day, it is very acute on the subject of patronage but takes in the action of legislators. It goes down to the matter of controlling men in the organization and making them stand true, but you have no knowledge of how they are spending their money and you are not interested in that? A. There are departments for that purpose; that is what they are put there for.

Q. And you don't consider it a part of your function to see whether they are sustaining the honor and the integrity of your organization by getting what they get at the lowest price and getting full value for it; you don't come down to that do you? A. I am not the commissioner of accounts myself; they examine all those things, or the Comptroller.

Q. You don't get down to that do you? A. I don't examine the officers.

Q. There are some things which you avoid. The principal thing you are interested in is patronage isn't it? A. I have nothing to do with it.

Q. You are interested in it? A. I don't interfere in the patronage.

Q. You don't interfere in the patronage? A. Not at all.

Q. But it goes your way—Mr. Carroll said so? A. I never interfere; I never ask them for a place.

Q. They ask you don't they? A. I never ask them.

Q. They ask you? A. They don't ask me, no.

Q. Sometimes they make it worth your while not to object don't they? A. No, sir, they don't.

Q. No? A. You are so used to impuning bad motives that you think everybody is as bad as yourself.

Mr. Moss—Mr. Croker, you have done that long enough—now you will please confine yourself to the question? A. You are trying to make me——

Mr. Moss—Wait a moment.

The Chairman—You are under examination here and we want to be fair with you.

Witness—I want you to be fair with me.

Chairman—You don't want to be fair.

Witness—Of course you are breaking me all you can; I am not going to be put down by him as being a dishonest man.

Chairman—We are fair with you. Mr. Moss has given you ample opportunity to place yourself before the world as you desire to be placed and you have an opportunity here to do so. We intend to give you ample opportunity to.

Witness—I take an opportunity to stop him.

Chairman—You decline to answer on the ground that it affects your personal affairs, notwithstanding the fact that counsel has stated that you stand here as representing the organization in this city. You have stated so yourself.

Mr. Moss—I want to say to Mr. Croker that while we had a considerable amount of free talk yesterday and this morning all the purposes that I had in view are served and we will now restrict ourselves to the questions and the answers and endeavor as far as possible to avoid side speeches and I shall ask for rulings.

Witness—Don't you make so many.

Mr. Moss—Now stop right there.

Q. Now, Mr. Croker I ask you whether these gentlemen who would come to you and ask for appointments did not make it worth your while not to object—I do not mean to imply necessarily a financial consideration; there are other considerations such as their subservience to you in their official actions; now I ask you that question again—have not men who have come to you to secure places made it worth your while to give them those places by being thus subservient to you as their director and advisor? A. No, sir.

Q. Never? A. No, sir.

Q. Would you decline such a power from these men if they gave it to you? A. In the first place, these men don't come to me for such purposes, you are only supposing; they don't come at

all. The leaders of the districts take charge of all the places in the organization.

Q. We were talking yesterday about the increase of salary and I ask you whether the increase did not find its way to you. You said "no." I ask you now whether the office holders under the administration are not asked to contribute regularly to the funds of the Tammany organization? A. They are not asked by me.

Q. Are they not asked by the organization? A. No, they are not.

Q. What are the duties of the wiskinkie? A. He is the collector that goes around collecting whatever contributions he can collect irrespective of party.

Q. Irrespective of party? A. Yes, sir.

Q. Do you mean to say that he goes to the Republican office holders? A. No, not to office holders—business men of all classes.

Q. But he does go to the office holders, does he? A. Yes.

Q. Of course he does? A. Yes.

Q. They contribute don't they? A. Some and some don't.

Q. Most of them do? A. I presume they do, I never saw a list of them.

Q. Are they not contributing substantially the amounts by which their salaries have been increased? A. No, sir, there never was a tax put on them, any officers.

Q. I am now speaking of voluntary contributions. Do they not freely contribute to the organization about the amount that their salaries have been increased? A. I don't know what their salaries have been increased; that is in proportion.

Q. There are large sums being turned in constantly by the collector are there not? A. No, sir.

Q. Aren't there returns every month? A. No, sir.

Q. When are the returns made? A. Just before election.

Q. Does the collector keep this money all the time himself? A. He turns it in every night or morning during the month of October previous to election.



Q. Is there any account kept of that money? A. Not as I know of.

Q. Is there any account of the person from whom the collector takes the money? A. Not as I know of.

Q. Is there any account of the sums received from him every night? A. Not as I know of.

Q. Is there any account of the disbursement of the same? A. It is turned over to the treasurer—he does not give it to me.

Q. You don't know of any account being kept? A. I don't know of any account.

Q. That stands in the same position as the assessment upon the judges? A. I don't know of any assessment.

Q. The contribution by the judges? A. They can give what they please.

Q. It is carried along in the same way isn't it? A. I suppose so.

Q. Mr. Croker, have not the conferences about judicial candidates usually been held in the Hoffman House? A. I never knew one to be held there.

Q. Have you never talked in the Hoffman House with your friends about judicial candidates? A. I don't remember.

Q. You are acquainted with Mr. Stokes, the proprietor? A. Yes, sir.

Q. He is a friend of yours? A. Yes, he is not the proprietor.

Q. He is a friend of yours? A. Yes.

Q. Is "Al" Adams a friend of yours? A. I don't know him at all.

Q. Is John Daly a friend of yours? A. Yes, which John Daly.

Q. The gambler? A. I don't know whether he is a gambler, there is two of them.

Q. Both of them? A. Not personally, just passing by.

Q. You know they have the reputation of running gambling houses in the city? A. I don't know. Which one? I know John Daly.

Q. Did you ever hear he had the reputation of running a gambling house? A. No.

Q. Did you ever hear that either of those Dalys had the reputation of running a house at Long Branch? A. I heard of one of the Dalys at Long Branch, I don't know which one.

Q. You never heard of any Daly running a gambling house in New York city? A. I may have heard it. Not lately I haven't.

Q. You were not especially anxious to have the police disturb themselves about closing gambling houses, are you? A. I think they ought to, yes.

Q. Do you think that the police should make a real and earnest effort to close gambling houses? A. I do.

Q. And poolrooms? A. Yes, sir.

Q. You secured the closing of the poolrooms once didn't you? A. I don't know whether I did or not. I said it was wrong and ought to be stopped.

Q. You said that one day to Superintendent Byrnes didn't you? A. I think I have often said it.

Q. You said that to Byrnes didn't you? A. I think I have often said it to different people.

Q. You did to Byrnes didn't you? A. I believe so.

Q. That it was wrong and ought to be stopped? A. Yes.

Q. And it was stopped quick, wasn't it? A. I don't know.

Q. You so understood didn't you? A. I don't know.

Q. It has been the general concensus of opinion that when you spoke that time it was stopped? A. I hope it was.

Q. You were then interested in racing yourself? A. I am yet.

Q. You were then? A. Yes, sir.

Q. And had horses on the track? A. Yes.

Q. And this miserable gambling in the poolrooms in the city was an interference with the track? A. It had nothing at all to do with the racing that I know of.

Q. Why don't you say that word now to Chief Devery? A. I would be glad to say it.

Q. Will you say it to-morrow? A. I say it under oath, now, before everybody.

Q. Will you say it to-morrow to Devery? A. I say it to be published, to you, that I am opposed to it and hope he will shut every one.

Q. And Carroll? A. Yes.

Q. And to Sexton? A. Yes, and every one.

Q. We will wait to see if they are closed? A. You couldn't close them when you was there.

Q. That is a little speech—how did you know they were not closed when I was police commissioner? A. Heard the same talk.

Q. Did you hear as much talk? A. More when you were there.

Q. I think you suggested the other day that you didn't know but I might be rich because I had been in the police department, what did you mean by that? What did you mean by that Mr. Croker? A. I don't know.

Q. What did you mean? A. You can take it for what I meant.

Q. What did you mean? A. I can't tell you any more meaning than that.

Q. Have you anything definite? A. Nothing definite.

Q. Have you any statement to make? A. No.

Q. Have you any charge to make? A. No charge.

Q. You know where to find me don't you? A. Yes, if I had a charge I'd bring it right up here. No charge, just the general impression.

Q. Do you mean Mr. Croker that it is a natural thing for a police commissioner to make money? A. No, sir, unnatural.

Q. You don't mean a police commissioner generally should come out of office rich do you? A. No, sir.

Q. You will please understand Mr. Croker that in all these remarks you will be held to an accountability and be given your privilege every time? A. I am willing to. I am only telling you the general rumor I heard.

Q. Where did you hear it? A. All over.

Q. From whom? A. Different ones.

Q. Any one in particular? A. Can't recall any.

Q. Name a person? A. Can't recollect any.

Q. Did you read it in the papers? A. No.

Q. In no paper? A. Never read it in the papers.

Q. Did you hear it from gamblers? A. I heard it outside.

Q. Did you hear it from gamblers? A. No.

Q. Did you hear it from poolroom keepers? A. No.

Q. Did you hear it from policemen? A. No.

Q. From what class of people did you hear it? A. Heard it from general rumor.

Q. At the Democratic club? A. No, sir.

Q. From what kind of people? A. Before we organized the Democratic club.

Q. Name one person? A. I cannot name anyone in particular, but it is the general rumor.

Q. When you can, will you send his name to the committee?  
A. I will with pleasure if I find one.

Q. Very well, do so. And then Mr. Croker you were as much interested in the affairs of New York at that time as you are now weren't you? A. Well, no, we were out then.

Q. You were out, but you wanted to get in didn't you? A. Yes.

Q. And you were looking for advantages weren't you? A. Fair advantages, not mean ones.

Q. And it is a fair advantage to catch a corrupt official isn't it?  
A. Yes.

Q. Why didn't you do it? A. We tried to do it.

Q. You tried and you failed? A. Who were they?

Q. You are talking about me? A. You had control of the government then.

Q. You were talking about me as police commissioner? A. But there you had control—we had no power over you to catch you.

Q. You had judges on the bench? A. Yes.

Q. You had the judges on the Supreme Court bench? A. Yes.

Q. And the judge at the Criminal part? A. Yes.

Q. You had a Tammany judge on the police bench, didn't you—Judge Simms. You had a Tammany district attorney most of the time? A. Yes.

Q. And you have them now? A. Yes.



Q. Why didn't you do something? A. Because we couldn't catch you.

Q. Do you mean to say I am smarter than you? A. You are a pretty smart man.

Q. I have given you your chance? A. Why don't you get some of them people.

Q. Your mental operations are a mystery to me. Are you interested in this proposition—to combine the Manhattan and the Brooklyn Union Railways? A. I don't know anything about it.

Q. Have you paid any attention to that? A. Not at all.

Q. Either for it or against? A. Not at all.

Q. How many shares of the Union Railway, the Huckleberry Railway did you own at one time? A. I decline to answer.

Q. Didn't you substantially control that railway at one time? A. No, sir.

Q. Why did you answer that question and decline to answer the other? A. That was different—one was a personal matter and the other wasn't.

Q. You select them in your mind what personal matters you will answer and what personal matters you will not answer? A. Yes, sir.

Q. Why do you answer some personal matters? A. They are not personal.

Q. And refuse to answer some personal matters? A. They are personal.

Q. Isn't it because the personal questions you refuse to answer would put you in a bad light before the community? A. No, sir.

Q. That is your judgment of the matter? A. No, sir, it is not.

Q. Did you not, at one time, own 8,000 shares of the Huckleberry railroad? A. I decline to answer.

Q. And wasn't that at a time when there was legislation pending at Albany affecting that road? A. I decline to answer.

Q. Wasn't it at a time when it was desired to get certain measures through the Railroad Commissioner's office? A. I decline to answer.

Q. Did you not take that stock to use your power to secure a resolution favorable to that railroad? A. I decline to answer that question.

Q. What became of the stock that you had in that railroad? A. I decline to answer that question.

Q. Do you desire that the Metropolitan railroad should get the contract for rapid transit? A. I don't know whether they will or not.

Q. Do you desire it, I say? A. I have nothing to express.

Q. Have you a desire you do not care to express? A. I do not care to express my sentiment on that.

Q. Very well; that is not pertinent at this time, and I won't press the question. It is not very pertinent at this time anyhow.

Q. Mr. Croker, you have been acquainted with Bourke Cochran, in times past, haven't you? A. Yes, sir.

Q. You don't speak now when you pass by? A. Not very much.

Q. Do you remember having some conversation with Mr. Cochran at the time when the Broadway railroad was changing its motive power from horses to cable? A. I don't know. That is a little too far back.

Q. Is that too far back to remember, think a minute? A. I don't remember.

Q. Did you have any dealings with Mr. Cochran at that time? A. He was in our organization at that time, friendly and all. I don't remember what dealings I had with him particularly at that time.

Q. It was necessary to get a resolution through the board of aldermen, don't you remember, to make the change? A. I don't remember.

Q. Don't you remember that Mr. Cochran talked with you about getting a resolution through? A. He might, I don't remember now.

Q. You won't deny that he did, will you? A. No, I think he didn't, I don't remember though.

Q. Do you not remember that for the interest that you took and for the work you did that you received a portion of Mr. Cochran's fee? A. That I what?

Q. You received a portion of Mr. Cochran's fee? A. No, sir. I did not.

Q. You don't remember that? A. No.

Q. Will you swear you did not? A. Yes, sir.

Q. You will swear that positively? A. I swear I don't remember it.

Q. Will you swear that you did not? A. I won't either one way or the other. I swear I don't remember it.

Q. Why don't you remember a thing of that kind? A. I don't know. I positively swear now that I did not.

Q. That you did not? A. Yes, sir.

Q. Now, look here, Mr. Croker, that certainly is as personal as anything we have discussed here—if there are any private matters that is one of them, and why do you come right out and deny that while you refuse to answer other questions? A. Since I have said that square to you right out now I can see your motive all through—that you are only putting these questions to me for the purpose of getting me to tell my personal affairs.

Q. You are now making a speech and you must stop. I ask you the direct question—did you not receive from Mr. Cochran a considerable sum of money; I will leave out “part of his fee,” a considerable sum of money at about that time? A. I object to the question.

Q. You object to the question? A. I object to answering it.

Q. Why? A. On principle.

Q. On what principle? A. I object to it first, because I don't remember it; secondly, because I don't wish you to go into my personal affairs at all.

Q. But you don't deny it, do you? A. I don't wish to answer the question.

Q. We will let it stand at that for a moment. After you received from Mr. Cochran a sum of money, did you not have a further conversation with Mr. Cochran and ask him for more? A. I object to answering that question.

Q. And didn't he refuse to give you more? A. I object to answering that.

Q. And is that not the reason of the coldness between you and Mr. Cochran? A. I don't remember anything about it.

Q. You don't remember whether that is the reason of the coldness? A. There is no foundation at all in it. The coldness between Cochran and I is on account of the United States senator, if you want to know. He wanted to be it and we opposed him.

Q. Why did you oppose him? A. Because we thought he wasn't a fit man for the place; we had another man we preferred.

Q. He was a gold Democrat? A. There was no talk of gold or silver.

Q. He is sound on all those questions which interested you? A. At that time there was no talk of gold or silver at all as a currency.

Q. But you will not say whether or not there was a financial transaction between you and Mr. Cochran at about that time? A. I don't remember about it and I don't want to talk about it. I don't wish you to know anything about my personal affairs.

Q. Of course not in such an affair as that, and wasn't it because you, as the boss of the party, controlled the board of aldermen? A. What do you mean by that.

Q. If you don't understand it I won't ask you the question again. Wasn't poor "Jake" Sharp actually driven into the crime he committed because there was no other way of getting the road on Broadway than to put up the money to your organization? A. I fought against that.

Q. I am talking about the people of your organization? A. Our organization wasn't in control.

Q. Wasn't it? A. No, sir, County Democracy.

Q. You have a lot of those county Democrats now, haven't you? A. We have nothing to do with the organization at that time of the board of aldermen.

Q. These very same people came in? A. It was the Republicans and the County Democracy did that. Mayor Grant was elected Mayor.

Q. I did not mean these two things should stand in just a position as to date? A. I am citing a matter which occurred long



before as an example of the same spirit, and whether it hits one side or the other, it is as immaterial to me as anything.

Mr. O'Sullivan—Wasn't that about twenty-nine years ago?

Mr. Moss—Oh, no.

Mr. O'Sullivan—In 1870?

Mr. Moss—Oh, no; Mr. O'Sullivan if my memory was playing me tricks, yours is now.

The Chairman—We won't discuss that question.

The Witness—It was in 1884, I think.

Mr. Moss—That is right. You knew when it was, didn't you, and what it was? A. 1884 board.

Q. Now, speaking about these electric conduits again, Mr. Croker, did not Commissioner Kearney protest against the putting in of those electrical conduits here recently, when the road's power was changed? A. Not that I know of.

Q. Didn't Commissioner Kearney and you talk about it? A. I don't remember.

Q. Or some one representing you? A. I don't remember.

Q. And did not you yourself say to Mr. Kearney, or by representative, tell him not to object? A. No, sir.

Q. You say "no"? A. No, sir.

Q. Why do you answer that positively; why do you allow an answer of that kind to go on the record; is that a personal matter? A. No, sir; it is not a personal matter; it is a public matter you are talking about now.

Q. That is a public matter, is it? Do you remember it, within a comparatively recent date, Mr. Croker, that some people in New York were anxious to form a new telephone company and came to you to talk about it? A. I hear hundreds of them.

Q. Yes; a company in which Mr. Astor was interested? A. Yes, I think I did.

Q. And they went to you to get your approval and your assistance, didn't they? A. Oh, yes; sent a representative.

Q. Now, why did John Jacob Astor and men of his class go to you to get your consent and approval for the opening up of a telephone company? A. He did not come to me.

Q. But his representative did? A. Some man came to me and said he was in it, is all I know.

Q. Why was it necessary or advisable to come to you? A. I don't know.

Q. Can you imagine? A. No, sir; I cannot; to get my influence, probably.

Q. To get your influence, of course, for the passage of bills, the passage of ordinances and passage of resolutions and actions of the municipal assembly or board of aldermen, as the case may be, and the action or non-action of the heads of departments; all those things were important, were they? A. Yes—no; I don't know that they were important. Lots of it might have been done without my knowledge.

Q. All these things are considered by men or company who start up a corporation to do such work as telegraphing or telephoning or anything of that kind? A. I could not attend to everything they ask me. The city departments do that.

Q. But do you know the departments have power over such company, don't you? A. Yes.

Q. Did they not come to you because you were the one man to go to whose advice was important in dealing with these different departments? A. Probably they thought so, yes.

Q. And they had good reason to think so, didn't they? Did you not promise to aid them so far as you were able to? A. No, sir; I did not.

Q. Did you not promise your influence? A. No.

Q. You said "no"? A. Yes.

Q. Am I not asking you about private affairs now? A. No; it concerns the city of New York.

Q. Any more than the other matters you have refused to answer? A. Yes; you were asking about my financial condition, and this is about telephone business.

Q. It is your private affairs what you said to a man interested in starting up a new telephone company? A. No, sir; you have not charged me with owning any stock in the said telephone or anything of the kind. If you do I will answer you quickly.

Q. Was not the purpose of these people to organize a new company that would lessen the telephone rates in the city of New York by competition? A. I believe that is what you said.

Q. And did you say you did not care to help them? A. No, sir; I told them they could go and see the proper authorities.

Q. You told them to go and see the proper authorities. What did that mean? A. That was all it meant.

Q. Wouldn't you give your active help to a corporation comprising such men that I have mentioned, whose purpose was to reduce telephone rates? A. They could do it without my help.

Q. Wouldn't you give them your help? A. Probably I would if they needed it bad.

Q. Didn't you? A. No.

Q. Did you say you would? A. No, sir; I did not.

Q. Was it because the New York Telephone people heard of it and came to you also? A. No, sir.

Q. Didn't you have any conversation at that time with the representatives of the New York Telephone Company? A. Not as I know of. When was this time?

Q. I am asking you when it was; you recollect it? A. I don't know.

Q. When was it, Mr. Croker, these people called? A. I don't know what time; there were several talks. There were talks every day of fifty different kinds of telephones.

Q. I will say it was within five years, Mr. Croker, and probably you can figure down closer? A. I remember there was some talk about telephones three or four years ago, or five.

Q. And the New York Telephone people came to you, too, didn't they? A. I don't remember.

Q. Don't you remember the New York Telephone people found out about the starting up of the proposed new corporation? A. I don't know it; no, sir.

Q. Wasn't the matter mentioned to you? A. I don't remember it.

Q. You never had any stock in the New York Telephone Company? A. No, sir; I decline to answer that.

Q. Did you have any conversation with Mr. Cutler about these matters? A. I don't remember that.

Q. Do you know Mr. Cutler? A. I have seen him.

Q. Who is he? A. He is Mr. Cutler.

Q. What is his business? A. I believe he is at the head of the telephone business.

Q. Head of the New York Telephone business? You have known him and have talked with him; what did you talk with him about? A. Nothing particular. I have not seen him but very seldom.

Q. This is some time ago? A. I have not talked with him anything particular.

Q. Did you receive any money from Mr. Cutler at any time? A. No, sir.

Q. Never? A. I decline to answer that question.

Q. You have answered it and then you take your answer back and decline to answer it? A. I decline.

Q. Did you make an agreement with Mr. Cutler for the payment to you of money? A. I decline that question.

Q. Did you not make a five years' agreement with Mr. Cutler for the payment to you of a sum of money each year? A. I decline that question.

Q. Will you deny it? A. I decline to answer the question.

Q. Will you deny it? A. I decline to answer the question.

Q. Will you deny it or affirm it? A. I decline to answer the question.

Q. Mr. Croker, if you took money or made an agreement to take money, or had a contract for money from these telephone people would you consider that an honorable or dishonorable act? A. Dishonorable.

Q. Did you do it? A. I decline to answer the question.



BOARD OF TRADE ROOMS, 203 BROADWAY,

NEW YORK, *April 17*, 1899—10 O'CLOCK A. M.

The committee met pursuant to adjournment, all the members being present at the opening except Mr. Wilson, who arrived later on.

The Chairman—A quorum being present, the hearing will proceed.

CHARLES STEPHAN, being duly sworn, testified as follows:

Examined by Mr. Moss:

I was employed as a waiter at a place generally known as the Broadway Garden, by Simon Buttner; I was there about twelve weeks; I was there during the time that Mr. Buttner was under arrest, charged with having stolen money from a man by the name of Magowan; I testified upon the hearing in favor of Mr. Buttner, and the complaint against Mr. Buttner was dismissed; I saw Mr. Magowan in Buttner's place the night that he alleged that he was robbed; I seen him mostly all the time he was there, all night; I couldn't say whether he was drunk or sober, I couldn't say either one of them. He was always sitting down, sitting down drinking and having a good time. No money was stolen from him, so far as I could see. I couldn't see that Mr. Buttner had any dealings or relations with Mr. Magowan that night. I didn't see any. I could have seen if there had been any stealing. I was recently approached by a man named Schultz and a man named Singer. They came to me recently. I was called by a messenger boy to go to 524 Sixth avenue, there was work for me and that there was a man waiting for me. At that time I was out of employment. Buttner's place had been closed up by the police. I went to 524 Sixth avenue, it was a week ago last Saturday. I saw there Charlie Singer, he was head waiter in Weber & Field's. I knew him before that time. I knew him when he worked in Weber & Field's. I did not work there. I was sent there with a card to go to work, and he told me he didn't need anybody. I had

a speaking acquaintance with him. He has been around to 524. Then he did waiting in an employment office, and worked in a saloon. Mr. Singer asked me if I wanted to make \$350 easily. I said yes, but I don't know how. He told me, he says I should swear that a robbery occurred in the Broadway Garden, Magowan's. That the money was stolen off of Magowan. I told him—I says, I went on the witness stand and I said the truth and I swore to it; I says that it was not stolen in my presence; that I didn't see it. He says "this is only an easy way to make money." He says "you can make money." He says "don't be foolish." He says "I have seen people go on the witness stand and they swore to things which they never seen," and he says "they only done it for to make money." I says that I wanted to consider the thing and I wouldn't tell him anything at present; but he could meet me the same night, about 7 o'clock, in the same place. That was all that happened at that time. He ordered a drink and then he went out. I went back there at 7 o'clock. I met Singer again, no one else. Well, he was sitting with a couple of waiters there on a table, and he came right after me, after I went out. He told me to go down with him to a man in Twenty-fourth street. I went down with him. His name was Henry Schultz. It was No. 43, a table d'hote place. Mr. Schultz keeps that place; so far as I know, he does. I saw Mr. Schultz. Before we came into the door, I says to Singer, "I don't believe it is any use for me to go up there." He says, "Come in, you are my guest." We came in and when we were there a little while Mr. Schultz came in. I was sitting on the table and they asked me what I wanted to drink. I said, "I don't care for anything." Singer told the waiter to bring me a bottle of beer, and I was drinking the bottle of beer. So when Mr. Schultz came in, he came in and sat down on our table, and he started to talk, and he says I should wait until he gets through his dinner, and when he got through his dinner he took me upstairs. This was a bedroom and a table in it. And he told me—he says I should tell him everything. He says then "I don't need to tell you that," he says, "Singer told you all about it before." So I says, "I don't want to say any-

thing to-night. I want to consider the thing." I says, "I won't say anything." There was another gentleman came in and he was introduced by the name of Frank Farrell. Frank Farrell was brought in. He is the keeper of a poolroom, so far as Schultz told me. I don't know anything of Farrell's poolroom, but Schultz has a poolroom on Twenty-fourth street and Sixth avenue. So Schultz says "He is afraid. He is scared." Schultz said that to Farrell. He meant that I was scared. He says "I suppose he lost his money on the races on the Fourth, what he got of Buttner, and he is afraid to say anything now." I says "No, I am not afraid, but I won't say anything to-night;" so Schultz told me, he says that there is nothing—that I should not do anything for him, he says; I should go to work for him any-way Monday morning, in the poolroom. Schultz said that. I had never met Schultz before that. I never seen him. He then asked me if I had any money for expenses? I said "yes, I have got five cents in my pocket." So he says "all right." He took out a roll and he says "here is \$10 for you until to-morrow." Then I left them, and I went home. I seen them again the next day, yes, sir. I told them I was willing to do so, but I wanted a second man to be with me. So he says "all right." He says I should find out where that man is and he promised me if I should go down in the court and swear that Mr. Buttner took that money, he says, it doesn't matter if I took it or Mr. Buttner took it, if I only gave Mr. Buttner a hundred dollars of it, it would not matter. He says I wouldn't be hurt anyway at all; I should have protection and everything else; and he promised me \$500, and a steady job in the winter in the poolroom and in the summer on the race track. I had already told him that I did not see any robbery committed, but he said that made no difference, if I would swear to this. I had told this to Mr. Singer. I told that to Mr. Singer and then he took me to Mr. Schultz. He promised me \$500 and steady work, and if I met that other man I should promise him—he says—he says, "You know what is right." He says "You can promise him as far as \$300." I meant by another man, another waiter who would swear to the same thing. At that time

I had seen you. I had reported to Mr. Buttner that they were trying to get me to swear against him, and Mr. Buttner brought me to you, and you told me to go back and not tell them that I had seen you or Mr. Buttner or anybody, and that I should thereafter report to you. You told me all that. The next step was, I was putting them off from one day to the other, that I couldn't find the man; that I was going all around New York city and that I couldn't find him. So I was always working in the afternoon in the poolroom. I did get work in the poolroom. I came in on Monday morning and Mr. Schultz in Mr. Singer's presence handed me \$5. He says "If you know the tip, you can play the horses and play a few dollars and you can make a little money." I did play. I did win something. I won \$14. I won \$14 on the \$5 he had given, and I also had my day's pay of \$5. He told me to look around for pickpockets, etc. I did not find any pickpockets. I don't know whether there were any pickpockets there. I would not know a pickpocket if I saw him. The men in that poolroom were playing the races there. It was upstairs. About thirty or forty men there played the races; thirty or forty men there all the time; men coming in and going out. I did not see any police officers come in there while I was there. I saw no police officers investigating the place. I did not see anything of any police officers at all. I did not see any police officer offer to stop the pool sale; no interference at all. I saw Mr. Farrell in that place Monday afternoon. As far as I know, it was Mr. Schultz's poolroom. He told me so. He was in the office attending to business, Mr. Schultz was. I worked in the poolroom four days. One day he didn't pay me, but he gave me \$10 the next day for two days, so that I got my wages for each day, and money besides that. Sometimes I told him I didn't have no more money, and he gave me a couple of dollars. A second man was found, a fellow by the name of George Twohig. George Twohig and I went together to see Mr. Schultz and Mr. Singer, but they took him upstairs, and I was downstairs. That time they left me downstairs. They called me upstairs. When I



came upstairs, so Mr. Schultz says—he says to me, “Twohig is all right,” and they asked me a couple of questions, about how the money was taken from Magowan, and so, and I couldn’t answer. So he says, well he says, “I suppose Stephan, you was drunk that night,” and he says he don’t remember the thing. He says to Singer to go on outside and let them two talk together, that is, I and Twohig, and Twohig said, in Schultz’s presence, that he had to get the story—that we tell one story. They said to me that we two must get together so that you could tell one story. Well, me and Twohig was staying there for a little while and Schultz came back, and he brought a poker deck with him—cards. Cards and chips, and he told us to play poker. We played there for a little while, poker, and Schultz too, and then he went out. He says, “There is some friends downstairs,” and they wanted to see him. So afterwards he came back again. He called me outside and he gave me \$5 and he says, “That is your wages,” and he went inside and gave Twohig \$10 for expenses. Then when we were downstairs, there was Mr. Schultz, Singer and Mrs. Schultz, and another gentleman. We was talking there and Mr. Schultz said that he had got time for a couple of days yet, that is, it was not necessary for me to make any affidavit for a couple of days, and so we could—me and Twohig, could talk together, and get the story up. So me and Twohig left there that night and went home. The next day I went to work again on the poolroom. I went to the poolroom and I told Mr. Schultz, I says, “Was Twohig here?” He says “No;” he says, “But you had better go out and look for him and find him.” He says, “Talk to him.” He says to come back again later on and stay around in the poolroom. I couldn’t found Twohig and I went back again later in the night in the poolroom, and that was the same day I didn’t get no wages. The next day I went to the poolroom again, and I went up there with Mr. Singer. Singer brought me up and he says, “You stay around here.” I told Singer, and said, “Mr. Schultz didn’t give me any money before.” He says, “You stay around the window until he sees you,” and as he sees me he came to the window and he gave

me \$5. He says, "For the day, I will give you that to-night." The same night he had given me \$5 dollars too. But Twohig disappeared that night, and I went and seen Twohig and Twohig says to me, "You tell Mr. Schultz that I am not coming in the morning at 9 o'clock." He was supposed to be started at 9 o'clock, where we were to go to work and swear against Mr. Buttner. Saturday was the day I was supposed to swear against Mr. Buttner, and Twohig told me he would not be there. He told me to tell him he would not be there. So I went to work and Mr. Schultz told me—he says, "You meet me at Koster & Bial's downstairs." When I came there he was sitting there with two more gentlemen. I told him and he got excited. I told him Twohig was not coming. Schultz got excited. He says, "I have to see him." I did not meet any police officer in any of these conversations to know him. So he says, "You come over home to the house; Singer is over there with his little boy; and we will send the boy home and you and Singer look for him." So we went around in 508, where Twohig goes in and out and looked for him there, and he was not there. We went to 524 and he was not there. So Schultz gave Mr. Singer the address of Twohig to go at and look for him there. We came up there and there was everything dark. His name was not on the letterbox, and Singer says, "Wait till I talk to the policeman out here." He went out and he talked to that policeman and the policeman came and waked the janitor up, and he asked her if she could tell him where Twohig was living. She says, "Yes, on the first floor in the back, on the right hand side"—east side. So the policeman went upstairs with us there and we knocked on the outside and he was not in. Singer says, "I will stay here with the policeman and you go down and see Mr. Schultz and tell him to go to Captain Price, and see if he can get a man to come here and bring him up here and knock in the door. I went down to Mr. Schultz and told him that. He said, "You go up as quick as you can to Singer and tell him to go home and never mind about it." That is all on that night. I went back again to see Singer and Singer was not there any more. The next was the next day, Satur-

day, when I was subpoenaed, and I seen Mr. Schultz. I saw Mr. Schultz and told him I had been subpoenaed. That was under instructions. So he says to me, "You go over to the house." He told Singer to take me over there and tell the waiter to give me anything I wanted. Schultz says, "I have to stay here a little while and I am going over to Captain Price and find out what I am going to do." So I stayed there until he came back. He says, "I have just come pack from the poolroom and I am going over to the captain to find out." When he came back he says to me, "Stephan, I will do anything for you." I says, "Well, Mr. Schultz, I don't like to go upon the stand." So he says to me, he says, "Where will you go? To Washington or Philadelphia?" I says, "I would like to go to Philadelphia, because I am not known there." I really did not want to go on the stand very much, but when I was subpoenaed I had to go. So I was there the same night and he told me to go home; if I had any papers home what I wanted to take along, but I should take no bundles; and just as I looked out of the door Frank Farrell came in again, and he walked into the dining-room and Schultz says, "All right; be back in an hour," and he talked to him and I went out. I went home and came back again, and sitting there until about 11 o'clock, when Schultz told me—says he, "Shall I tell Singer you are going away?" I said, "No." So Schultz went in the parlor and he says, "Stephan, go out and get me the last edition on Twenty-third street." When I came outside he had that man there to take me to the train. I don't know the man. He was a young German. He says to him, "You go over and buy a ticket for this man to Philadelphia and you get a sleeper for him, too," and he says, "You can go as far as Newark, and then come back again." And I left him, Schultz, and I went over to Newark, and at Newark we had to get out of the train and wait for the sleeper, and go in there; and the young man went back again home. I came to Philadelphia but I don't know what time I got there; but I waked up at 6 o'clock in the morning and I left the train Sunday. I left the train and walked around Philadelphia and it took a couple of hours; and Mr. Schultz told me that I had

to go to the Lafayette hotel at 12 o'clock and wait and there should be a message for me, and he would be there at 1 o'clock himself. So at about twenty minutes of 12 o'clock I went to the Lafayette and I asked the clerk if there was a message for me, and he says "No;" so I went back again and I went to the train, to the depot, and took the train and went back again to Jersey, and I haven't seen Mr. Schultz since. That is the check I had on the train (a sleeping car check). That is what the nigger gave me in the train when I came back.

Mr. Moss—I will offer that in evidence.

It is marked "Exhibit L."

Mr. Moss—I will suspend the examination of Stephan for a little while. Will you call Twohig again?

The Chairman—George Twohig!

(There was no response.)

Mr. Moss—I would like to have a note made of the fact that I served a subpoena on George Twohig myself.

A Gentleman.—I have got him here any time you want him. I have got him guarded. If you will get me a man I will bring him here in a few minutes.

SIMON BUTTNER, being duly sworn, testified as follows:

Examined by Mr. Moss:

I started a business on the Bowery between Houston and Bleecker streets in 1890. I did not see any police captain at that time. I have seen politicians. I just came to the city of New York as a country jay, and I have seen a certain politician, and he told me I have got to see the police if I wanted to do business on the Bowery. I couldn't mention the name of the politician. I don't remember now. It is so long ago; but I was advised to see the police. I went to see a representative of Captain Meekham. I have got to abide by the laws. That was the answer to me. Yes, sir. "They have no protection whatever." I asked



that politician over again. He says "The best thing to see is the inspector"—Inspector Williams, at the time. I went to see Inspector Williams but I couldn't see him, only a man by the name of Price. That is the present captain, James K. Price. He was then a roundsman. I seen him and I told him what kind of business I have and where I am located, and he told me I can only do business with him, and I did it. He said to me I was to give him a hundred dollars a month, "and anything that comes off." I didn't know at that time what he meant by "anything that comes off." I didn't understand the slang at that time. But I gave him—I paid him regular \$100.

Q. What about anything that comes off; what were you to do then? A. I remember very well now what it means. If a trick is turned—what they call, in the slang—that he was to get half of it, or a third of it.

Q. That is, if somebody was robbed? A. Yes, sir.

Q. He was to get half of it? A. He was to get half of it. I have done business with him for quite a while. There were certain complaints—

By Mr. Hoffman:

Q. Did any tricks come off? A. Yes, sir, one.

Q. When did that trick come off? A. At that time.

Q. Will you just explain to the committee what the trick was? We want to know all about it. A. Yes, sir; that trick was: One day Price sent to me to meet him at the corner of Bleecker and the Bowery. He says, "Buttner, how about that trick that came off last night?" I said, "What is it?" "Here is a man that lost \$400 and a gold watch." I said, "I know nothing about it."

By Mr. Moss:

Q. Where? A. In 304 Bowery.

Q. In your place? A. Yes, sir; I says "I know nothing about it." Well, he says, "The complaint came there. The man was just ready to go to Europe the following day." He described the man to me and I remembered that he was in the place. I says,

“Sergeant, I know the man who was in his company, but I know nothing about it. They walked out together.” And I then mentioned to him the man who was in his company and he made a note of it; and the following day the same man came back, or probably the day after that, and said, “You are a fine son of a s-and-so.”

Q. That was, to give his name? A. To give his name away to Price. What the answer was, naturally I don't remember any more. Of course I told—I told him, “probably it don't make any difference to you. You have no right to come in here and do such work, etc.” There was complaints from the neighbors——

By Mr. Hoffman:

Q. You said yourself, did you not, this man was robbed? A. I knew nothing about it until Price told me.

Q. A complaint was made that he had been robbed in your place? A. Yes, sir.

Mr. Moss—He said the sergeant told him that there had been a robbery in his place?

The Witness—Until there was complaint made, I told him I knew nothing about it at the time. Of course, when I told him who the man was in his company, he went to see him or sent for him.

By Mr. Moss:

Q. Did you have to give anything on account of that matter? A. No, sir; not on that matter, because I had nothing to do with it. He never spoke any more about it. There was complaint from the neighbors.

Q. What? A. About the music being too loud. The houses in the rear, on Elizabeth street—they complained, and every time the complaint went to headquarters Price used to send for me or come around himself, and it cost me another \$40 or another \$50 or \$25 to square it. Especially one certain man that has lived back there, by the name of Taylor, that owned that property. He

was the most expensive what we called kicker in the neighborhood.

Q. He cost you something every time he kicked? A. Every time he kicked, and he was a hard kicker and he couldn't be fixed.

Q. I did not ask you the name of that man who was with the one who was robbed? A. I would prefer not to mention that name, if it is no difference to you. If it is necessary I can mention his name.

Mr. Moss—You can give it to me in private.

The Witness—If you wish to. The man you mean who was robbed, or who done the robbing?

Mr. Moss—The one who probably was robbed?

The Witness—That was supposed to be; yes, sir; that is the only one I know.

Mr. O'Sullivan—Why do you say probably, when he says "robbed." He says it affirmatively.

The Witness—I said the man—that settled it. He was supposed to be the robber.

Mr. Moss—Never mind. You are not to discuss it with Mr. O'Sullivan.

By Mr. Hoffman:

Q. Will you fix the date about the conversation you just narrated, in regard to Williams, Price and Taylor? A. It was in the year 1890 that I opened that place.

Q. When was it this conversation took place, and what part of 1890? A. During the time that I was in business there. I can give day and date of it by looking up the lease, what time I started.

Q. Some time in 1890 or 1891? A. It was some time in 1890 or 1891, when I have started in business in the Bowery.

By Mr. Moss:

Q. How long did these relations continue with Mr. Price? A. Probably about a year.

Q. As long as you were there? A. Yes, sir. No; not as long as that. He left there then. He was made captain.

Q. Were those relations continued with any other police officer that is now in the department? A. I can't understand that question properly.

Q. Did you give money to any other police officer who is now in the department? A. I never was asked for any.

Q. Only by this man? A. Only by that man. Never was asked for any.

Q. Did you have anything more than a concert garden and drinking place there? A. No, sir; I didn't even have a concert garden. I simply had a saloon with a backroom and a piano in the rear. I did not have any rooms upstairs. I did not have any rooms downstairs. I did not have any annex, I lived on the first floor myself. My brother lived above me, and the top floor was rented out. I have five children. I had nothing but a saloon and a little music in it.

Q. I suppose the people who patronized your place were not of the best character? A. Well, it was not a Sunday school, that I dare say; but just as frequented as any other saloons.

Q. Your saloon was patronized by the people who generally frequented that neighborhood, I suppose? A. Yes, sir.

Q. Did you give any testimony in the trial in New Jersey of Assistant Prosecutor Joseph Noonan and Assemblyman Alexander Simpson, for bribery? A. Yes, sir; to my sorrow I did. I did testify; yes, sir. I testified to things that actually happened in my presence. It happened in my dining-room, on Twenty-eighth street, between Sixth avenue and Broadway. I fell into that very innocently. I stood in the dining-room—I am not now speaking about the Broadway Garden, I am speaking, now, between Sixth avenue and Broadway, on West Twenty-eighth street. I had a hotel and restaurant and saloon. A very extensive place. I did not have any concert garden there, a regular hotel and regular restaurant. It happened that one night two gentlemen came in with these gentlemen, Simpson and Noonan, and they sat at the table at the dining-room. I was always in the dining-room to see



that everything is served properly. And those two gentlemen were two reporters and Mr. Simpson and Mr. Noonan, from Jersey City. I stood there. I walked up and down until I was called up and introduced to Mr. Simpson, and Mr. Noonan to me, by those two gentlemen. Never knew what it was, never knew a thing about the whole transaction, the whole affair, until the following day or two days after, until I was called up to Silver Dollar Smith's—he sent for me, a messenger boy, and he took me up on the top floor. I didn't know what they wanted, for what purpose, and Silver Dollar Smith—Charlie Smith, rather, is his name—told me, “Buttner, this Mr. Noonan, assistant district attorney of Jersey City, got in trouble, and you are one of the witnesses. Can you save him?” I says: “Me a witness? How so?” He says: “They have got it that you were with him at the time this happened. Now, what I want you to do is to help this man all you can.” I says: “Certainly, I would like to see no man in trouble, as I told you, Joe.” He says: “Will you make an affidavit to what I dictate to you?” I says: “Certainly, I will, as long as I don't perjure myself.” I made an affidavit to him there, signed it just every word that he dictated to me, and I swore to the affidavit at 12, between 12 and 1 o'clock, midnight, on Broadway, somewheres between Thirty-second and Thirty-third streets. Some notary public there; sworn to. I swore to that affidavit and went home, never thinking anything, until certain people have sent for me.

Q. Who sent for you? A. I would rather not mention the names, if it don't make any difference to you.

Mr. Moss—It does make a difference. I think it is better.

The Witness—I don't know if I can remember the name exactly.

Mr. Moss—Hold on. If you want to be excused from answering the name, that is one thing; but we have had too much of this “don't remember,” and I do not want you to disgrace yourself by not remembering.

The Witness—I don't understand that. I don't think I could mention the names, even.

Mr. Moss—I will talk to you about that again. Go on.

The Witness—They sent for me and told me, “Buttner, you must go over and help those people. Get on the stand.”

Q. Were they politicians or policemen? A. They were politicians, and also policemen.

Q. They took an interest, then, in these Jersey officials? A. They took a great interest in them. I says: “How can I go over there and testify different than I gave the affidavit. You must remember I have got a family and five children to support. I am not going to perjure myself and go to States prison.” “Oh! you must help us whether or not.” I saw no other way. It was bread and butter or go to States Prison, one or the two. I went over there. When I got over there I was subpoenaed by the other side, and they wanted to imprison me.

Q. The officers? A. Yes, sir; they wanted to imprison me, until Mr. Noonan got up and said they would furnish bail for me, “and he will be here whenever you want him.” So I didn’t want to loose my liberty, and I went on that stand and swore to what I had made an affidavit of.

Q. That is, that the man was in your rooms in Twenty-eighth street? A. The only question was, that they wanted me to testify to certain different things—that this man Noonan was away probably twenty-five feet, when he was at the same table; that I should swear he was twenty-five feet away. They were willing to sacrifice Simpson but not Noonan. They wanted me to perjure myself, and I wouldn’t stand that.

Q. It was a matter you had no interest in? A. None whatever. I didn’t even get carfare to go to Jersey or carfare to go to Silver Dollar Smith’s, or my spending money there. I had no interest whatever in it. It was simply an occurrence of a misfortune that happened there and could have happened at any other restaurant.

Q. You remember the man whom you supposed did the robbing down on the Bowery? Was he in this transaction in any way? Was he with the police officers in this matter of Noonan? A. Yes, sir.

Q. He was? A. Yes, sir.

Q. Was he with the Headquarters men? A. Yes, sir. He made the arrest on me when I ——

Q. Just answer my question. That same man whom you knew down on the Bowery was working with the police officers in this Noonan case, was he? A. Yes, sir.

Q. Was he working for or against Noonan? A. He was working for Noonan.

Q. Were the police officers over here working for Noonan? A. A few of them; very few.

Q. And were you arrested on the 17th of February, 1898, about midnight? A. Yes, sir.

Q. On the street? A. On the street. When I was jumping on the car to go down from one store to the other.

Q. And that man was present when you were arrested? A. Yes, sir. He made the arrest.

Q. Is he a policeman? A. No, sir, he is a private detective.

Q. Who is he? That is what you would not give before? A. Well, since you have got it down as particular as all that, I will tell you who it is.

Q. Who was that? A. He is a man by the name of George Oestricher, better known as "Sheeney George."

Q. Did he say anything when you were arrested? A. Yes, sir.

Q. What did he say? A. He said: "That is what you get for going over to Jersey and doing what you did."

Q. Were you tried in that case? A. I was, yes, sir.

Q. What was the result? A. The result was that Recorder Goff announced: "Mr. Buttner, you are honorably discharged." I think I have got some of the newspaper clippings yet from it.

Q. When did you go into what was called the Broadway Garden? A. That was about a year ago now, about this time after I sold the Thirty-seventh street place.

Q. Who was the captain when you opened that place? A. Captain Sheehan.

Q. Did you have any trouble with Captain Sheehan? A. No, sir.

Q. Did Captain Sheehan ever make any demand on you? A. No, sir, never.

Q. Was your place inspected by any police inspector? A. It was inspected by Inspector Brooks. It was inspected by Inspector Thompson.

Q. Did Mr. Brooks ever make any complaint about your place? A. No, sir.

Q. Did he ever make any demand on you? A. No, sir.

Q. You say it was inspected by Inspector Thompson? A. By Inspector Thompson very frequently.

Q. How often? A. Probably three times a week.

Q. Did he ever make any demand on you? A. Never did a cent. Nothing. Never asked me for anything.

Q. Did he ever make any complaint to you? A. No, sir, never did.

Q. Or against you? A. Never did.

Q. Did he make any report about you at headquarters? A. Never did.

Q. Is he now the inspector of the district? A. I think he is.

Q. Did he ever speak to you about the character of the place you kept? A. I spoke to him about it.

Q. What did you say? A. I said—I asked the inspector: “Inspector, how is it that I am so hounded? I am running a respectable place here, which you can testify almost to.” He says: “I am ready any time to testify that you are running a respectable place. I have never seen anything wrong here; and besides that I have sent men here when you didn’t know nothing about it”—which I do remember—“very often, and never found anything wrong.”

Q. Did he not make substantially the same statement in this very room, in the presence of some of my men—substantially that statement—that there had been nothing wrong with the Broadway Garden when you were there? A. That I didn’t know. Right back there we were standing talking. That is right.

Mr. Moss—Yes, I know that very well.

The Witness—That is right.



Q. What did he say about your place and the treatment you had received? A. He said: "Buttner"—I will tell you the truth, what he said there. "Buttner, I have never seen anything wrong in your place. I only remember one time I took a drink of whiskey, and you had it pretty strong." That is right.

By Mr. Hoffman:

Q. Was he there only the one time? A. Three or four times a week.

Q. During what time? A. During business hours.

Q. How long since? A. Probably since the last—until this Magowan affair.

Q. How long a period, beginning when and ending when? A. From the day I started. I can't exactly recollect the time now.

Q. About? As near as you can tell it? A. I think it was in the month of April I started.

Q. What year? A. Last year.

Q. 1898? A. Yes, sir.

Q. You continued in business how long? A. Until about January or February, here, when I was closed, sometime.

By Mr. Moss:

Q. Was he inspector all the time? A. Yes, sir. Then I had the chief in there.

Q. Chief Devery? A. No, sir, Chief McCullagh. When I first opened; and even was there one night Chief McCullagh, Mr. Brooks, Mr. Sheehan—was in when the Press had a supper there.

Q. The newspaper Press? A. The newspaper Press. And they came and looked around, and the only remark Mr. McCullagh made to me, he says: "Buttner, as long as you don't touch your rooms upstairs, and you keep your business the way you are doing now, you are all right, and I wish you good success."

Q. Did you have any rooms upstairs? A. Never let a room out. They were all dead.

Q. You were to keep your rooms unused? A. Unused.

Q. When Mr. Price came into the precinct, did he say anything to you? A. Before Mr. Price came, when we heard the first re-

port, and Price came to the precinct, it was "Hands up." There is the finest man in the business. He didn't prove such a success. When he came there the first night, he sent in for me, my bartender. I came out. He says: "Hello, is that you here?" I says: "Yes." "Since when are you here?" I told him since when, as we were old acquaintances, college chums. So he says: "Well, what are you doing, what kind of business are you doing?" I says: "I am doing a legitimate business." He stood in the door and he looked inside, and he seen some French women in there. He says: "Buttner, there are some French women in there. I want them out of there." I says: "Captain, that is hardly possible; they are very good customers; they are as good spenders as we have got. They do eat the best. I have got to look out for my expenses." I was under rental of \$8,000 a year. My expense was \$800 to \$900 a week in that place. Naturally I could not drive any trade away. I says: "Captain, how can I do that?" He said: "Well, we want to drive them into the houses. We don't want them around there."

Q. What houses? A. That is the usual language that is used when they want them to go into the fast houses. I says: "Captain, I always did as you tell me to do, didn't I?" He says: "Yes, I know you did." I says: "And I always obey orders, and any orders you have got to give me, that is all right." I says: "Who will I have to do business with?" He says: "I will let you know in a day or two." He come along the following day, or the day after and set the price. "It will cost you \$150 a month, and the same old thing, anything that comes off." I says: "Hold on, captain, there is nothing comes off here. I don't let out a room. I am doing now a straight forward business." He said: "I don't care a God damn if you let out a hundred rooms a night. I want \$150 a month." Now, he is not a man that you can sit down and consult with him and speak gently with, because he is as liable to hit you as look at you, if you are anyways contradicting him. I know the best thing is to let him go. I says: "Captain who will I have to do business with?" He says: "Bob Nelson." I says: "Who is Bob Nelson?" He told me who he was. I says: "Oh, no, captain, I ain't doing such things as that."

By the Chairman:

Q. What did he tell you? A. He told me where he was located, etc.

Q. Where did he tell you? A. On the corner of Thirtieth street and Seventh avenue; the corner saloon. I says: "No, captain, I am too old in the business to throw my liberty into the hands of Bob Nelson. If I can't do business with you, I don't do no business with no politician or no saloon keeper;" and he didn't like that at all; but he commenced to arrest.

By Mr. Moss:

Q. Arrest what? A. To make excise arrests.

Q. Had you not had any excise arrests before that? A. No, sir, not excise arrests. I hadn't an excise arrest under Sheehan, nor under Chapman, nor—yes, I think I had one under Chapman. That was my first arrest, was under Sheehan, for excise. I had never had arrests before until this last place in the Broadway Garden. I got them by the wholesale there.

Q. Was it Sheehan or Chapman who gave you the first arrest? A. Chapman. Sheehan never gave me no excise arrest.

Q. Then you say you got arrests by the wholesale for excise? A. Yes, sir.

Q. Well, you were not willing to go to see Bob Nelson? A. Not to see him. So I thought the best was—I have got too much money invested; I must go and see him. I went there to see him at least a half a dozen times. He was always denied to me. Then I seen that the thing was too late, and I couldn't do no business with him. Then I was advised to go to see Al Adams.

Q. That is the policy king? A. That is the policy king. He is also brewer of the Karsh Brewery. He is the owner of this Karsh Brewery.

Q. What has that to do with it? A. By taking beer from him you are all right. You will be well protected.

Q. Is he well known in the community as the policy king? A. Yes, sir.

Q. His business is no secret, is it? A. No, we all know that.

Q. It is one of the well known things in the city? A. Yes, sir everybody knows that.

Q. Did you see Al Adams? A. I didn't see him personally. I sent to him.

Q. Did you get word from him? A. He says: "Buttner cannot be protected in this precinct." My man asked him "What did he do?" He says: "Well, he got in trouble over in Broadway there. He didn't do like the way the boys wanted him to do, and consequently they won't touch him."

Q. That was the message that came back? A. That was the message that came back.

Q. While you were having these excise arrests were there other places in the neighborhood that were open and doing business all night? A. Yes, sir, and running in a fierce manner.

Q. What do you mean by a "fierce manner?" A. Well, it would be disgraceful to mention it here in the public. Like some of those places are running.

Q. Now? A. Now, and had been at that time.

Q. You mean in an immoral manner? A. In an immoral manner.

Q. And publicly so? A. It was so, open doors day and night.

Q. Free to enter? A. Free to enter for everybody and anybody.

Q. Did you have any other interviews with Captain Price after that, or with anyone connected with him? A. Yes, sir, I had one interview with Captain Price. I went to see his brother, who was a perfect gentlemen. It must have been some mistake between the two anyhow; and he made an appointment that I should meet his brother that same night. We met right in front of the Greeley statue. Sam Price, his brother, came and fetched me, and I went out to meet him out there, and I told him, "captain, how is that, that you and I can't get along?" "Well," he says, "I will tell you. Simon, I have got nothing against you personally; never did have anything;" but he says, "You can't stay in this precinct. There is something else behind it. Now, the best



thing you can do is to get out of this precinct." "Well," I say: "I have got too much money invested here. I have got at least eight to ten thousand dollars invested in the business. How can I get out?" He says: "Try and sell out." I says: "Let me alone until I can sell out," and I was willing to give up. So that was the understanding. "By the way," he says, "there was a complaint yesterday came down from your place, that some man got robbed there of \$400; some captain of a boat." "Well," I says, "I know all about that, captain. I know that. Don't blame me for it, for as soon as that man reported, as soon as we heard of it, we quick sent out to get one of your officers, and we told him who the woman was, and he followed them right up and he got the money."

Q. Got the money from the woman? A. Got the money from the woman. "Now, if you people encourage those women to rob a man, if they stand in with one-half of it, you can't blame us. We can't put a watch over every man and woman to watch them."

By the Chairman:

Q. You said that to Captain Price? A. I said that to Captain Price. So he says: "Do you know that woman?" I says, "Yes, I do know that woman." "Can you point her out to somebody?" That was his brother standing with us when we had that conversation. I said "Yes, sir. I cannot point her out exactly but I will send one of my waiters along with him to find her on the street," and which I did, and I sent a waiter with him, and they were out about an hour and came back. They postponed it until the following day. During the time when they came back, back comes this same officer that got the money—that is, I suppose he got the money from the woman; and he says to me, he says: "Buttner, there are headquarters men out for that woman."

By Mr. Moss:

Q. Headquarters men hunting for that woman? A. Hunting for that woman. "Don't you tip them off," he says. Now, if

there was any robbery of that kind occurs anywhere you can't blame the man that runs the place. The women have got the protection to do it there. They do it.

Q. Is that a common occurrence? A. That is a common occurrence. I know of a hundred instances.

Q. That is, where women rob men, and a complaint is made to the police officers, who go and get the money from the women and keep some of it; is that what you mean? A. They divide it. I will tell you of a circumstance of Mr. Price's action right here. There was a certain woman robbed a man of \$3,500, and the man went—the woman met a certain man—he is not a wardman—an officer in citizen's clothes—on the street, and she gave him the money; and he got the money. During that time this man went down to the station-house to make a complaint, and meets Captain Price there, and makes a complaint to Captain Price. Captain Price goes out, and as misfortune happened to these people they met the girl on the street. Naturally, they had to arrest her. She told them, "I gave your wardman \$3,500." They took the girl along, and by that time the wardman got back, and they returned the \$3,500 and let the girl go. If that had happened in my place, naturally I would have been to blame for it.

By Mr. Hoffman:

Q. Were you present at this conversation you speak of when it occurred? A. I was not present at this conversation, no, sir; but I only relate this as a circumstance, as far as the robbery is concerned.

The Witness—Mr. Hoffman asks me the question whether I was present when this conversation took place. I simply know the man that made the complaint that he lost \$3,500, and went to the station-house and got the money, and came back again and reported to me that he got his money.

Mr. Moss—You will be kind enough to give that name.

The Witness—I don't know his name.

Mr. Moss—We want to follow that up.

The Witness—I don't know the name. I had a right to hear the name and address at the time, but I didn't look for——

Mr. Moss—It is perfectly plain that matters of that kind are not a direct allegation against anybody, and ought not to be considered as such—when they are merely heresay statements; but I thought we might take them occasionally for the purpose of following them up. This is a matter that I never heard of until it was stated by Mr. Buttner on the stand.

By Mr. Moss:

Q. Do you remember at one time when you yourself were arrested for an excise violation, and you were passing with the detective in front of Silver Dollar Smith's place on Thirtieth street? Do you remember hearing the music? A. Yes, sir; I remember the circumstance of an officer coming in one night, and he went upstairs—that is, where the parlor is. I have got two floors. He made an arrest upstairs of one of the waiters. He was a member of a club. I had two licenses. He arrested him, and he came downstairs and he says to me: "You are under arrest also." I says, "For what?" He says, "I don't know; but I was told you were under arrest, "Well, that is very funny; you were told I was under arrest. For what?" "For violation of the liquor law." I says, "Did I sell you anything?" "No," he says, "but Captain Price told me to take you along." I brought up there three or four witnesses. I says, "I will not go along with you until I get those witnesses. You must state for what purpose. I want to know what I am arrested for." I might as well talk to a brick wall as talk against him. Naturally, I have been arrested. I have been put in a cell. No attorney, no bond was taken for me—for an excise arrest.

Q. Were you denied bail? A. Denied bail and denied counsel. That is, not once; four or five different times.

Q. But I am asking you about the conversation with the police officer in front of Silver Dollar Smith's? A. When we passed by, when I went along with the officer, Silver Dollar Smith's place was open, and the noise loud enough to wake peo-

ple fourteen blocks away. I says, "Why don't you make an arrest there?" He says, "I don't know. Captain Price told me to bring you, and that is all I know about it."

Q. I want to ask you what occurred to you when you were arrested on the Magowan complaint? State your experience in the station-house. A. There are more experiences than that which I would like to relate.

Q. You feel that when you have made a start you had better tell the whole story? A. No, but because I want to show the public that a public citizen is treated worse than in that place in Russia, and you want it for the benefit of the public, don't you? That can happen to anybody.

Mr. Moss—Certainly, tell us.

The Witness—On one occasion, that was during this war, when the Rough Riders came back, we had considerable trouble on account of the boys drinking so much, and we got a crowd of about eight young men came in there on a Saturday night. They claimed they wanted to run the place. Naturally I wouldn't allow that. They went there and throwed some of the beer glasses over the Rough Riders and got into a quarrel. I sent out for a policeman. During the row we arrested two of that crowd of eight—two young men. When they were brought down to the station-house I was a witness, certainly, and some of my waiters, to hold those two people for their conduct. Captain Price was at the desk. Captain Price turns around and says: "Hold that man there; put him down." They take me, as a complainant, and leave me in the cell without bail. It was a Saturday night and a large business—all by myself. So my people went all around to try to get a police justice to get me out, and at four o'clock in the morning, the police justice—they got out of bed at two o'clock in the morning and at four o'clock I got out of the cell.

By Mr. Hoffman:

Q. Who was the police justice? A. Who was the police justice?



Mr. Moss—I do not know.

The Witness—You have got it there in my statement. If I am not mistaken, Cornell, or Deuel—Judge Deuel.

By Mr. Moss:

Q. Do you remember this? A. I can get you the name particularly of the judge, the day and date and who it was, and all it costs—the expenses were, on there, about \$22; carriages and lawyers, etc., \$22, the expenses were brought to me on that little occurrence. The following morning we appeared, I think, before Judge Simms, and they made their statements. Naturally, Judge Simms fined the both of them. Now, for that I had to lay in a cell. On excise arrests they never accept no bonds from any of my working people. Where they have made as high as, in one night, five arrests, they had to lay in the cell until the following day, always. They wouldn't accept no bail. Now, I think for my \$1,600 I pay a year, I ought to have as much privilege as Silver Dollar Smith has, or any other of those dive-keepers down in the Tenderloin, or any common prostitute that walks the street; she can be bailed out, and my work people that are working for a living to support their families—I think they ought to have as much rights; and they could never get bailed out; they were always held in. Of course, if I could get Bob Nelson, but Bob Nelson wouldn't bail me. That would be getting into their line. That wouldn't do.

Q. Does Bob Nelson bail most of the people up there? A. All the women. Nobody else has a chance there. If he does, they will find fault with them immediately.

Q. It is well understood that they pay him for his kind acts? A. The kind act is simply for—the way I understand, and on pretty good authority I am speaking, \$5 for prostitutes, and \$15 or \$20 for larceny, and so forth.

Q. That is the current rate? A. Yes, sir. As the "World" claims, it is better than a President's position; pays better, rather—not better, but it pays better.

Q. Have not large numbers of women been arrested there, and thus a fine field for cultivation—— A. Never a woman arrested in my place.

Mr. Moss—I am not talking about your place, but the precinct?  
The Witness—Yes, sir.

Q. Lots of money has been made in that way? A. I know of \$25 to \$30 a night, to \$40. The police court records will show you that.

Q. Then there must be a great many disorderly houses there. The women that are arrested on the street must go to disorderly houses, do they not? A. They frequent such places, I suppose.

Q. Are there many raids on disorderly houses in the precinct? A. I only know of one. That is all I know of since I was in Broadway there. But there might have been more. I don't know.

Q. But there are a great many women arrested? A. Yes, sir.

Q. And no keepers of houses convicted? A. Oh, I don't know. I don't know of any.

Mr. Moss—You ought to know.

The Witness—I did, but I didn't pay no attention to it. I should, but I don't remember it.

Mr. Moss—Is it not a matter of general knowledge, at any rate?

The Witness—It didn't concern me, you know. There ought to have been.

Q. The precinct has been wide open all the time, and is now? A. Oh, yes. There is no trouble to find a place open there.

Q. Did you say that no woman has ever been arrested on an immoral charge from your place? A. No; never. Never.

Q. Now, I will ask you about the arrest of yourself in the Magowan case——

The Witness—Do you want me to go into details about the Magowan case?

Mr. Moss—I want to ask you about receiving the third degree in that case, at the hands of Mr. Devery.

A. Well, it was not Mr. Devery as much as it was Mr. Price.

Q. It was Mr. Price, then? A. Yes, sir.

Q. What did Devery say to you? A. Well, he cross-examined me on how the man came in with the money and how he went out. He simply cross-examined me. Asked me questions.

Q. You had not very much to do with him yourself in that particular line? A. Not as much as I had to do with Mr. Price.

Q. Was there anything special about Price's treatment of you? A. Oh, he didn't handle me with kid gloves. He had none on.

Q. What did he do? A. It was more what I done. If I had said a word, I would probably have been out of there as a cripple.

Q. Will you tell me about it? A. When this Magowan affair was everything settled, Mr. Magowan has written a letter to me to come up to the Fifth Avenue Hotel and see him. I came up there with my attorney, and we seen him in his private room, private apartments. He had in his presence his attorney and two of the house detectives—one house detective and one detective from the Imperial, and after I had explained matters to him, how everything was, and how he acted and what he did, we parted as the best of friends. Not a word ever occurred. A week after our friend, Mr. Price, heard about the Magowan affair, and he sent for Magowan, and he said to Magowan, so, "That is just what I am looking for." As it happened, Magowan had a man with him, was a worthless fellow—for a five dollar bill he would do anything—and he told him all about this. "This is just what I am looking for. I want to land this man Buttner."

Q. Who was this man that told you? A. He was with Magowan.

Q. What is his name? A. I don't remember. I can think of his name afterwards.

Q. How did you know the facts? A. By his telling me.

Mr. Moss—I guess you had better not go into that. That is hearsay. You can tell me about that.

The Witness—Anyhow, he got him into the station house and explained everything, and then he sent for me. Price sent one of his men to me, and he says: "The captain wants to see you."

"Well," I says, "it is rather a wrong time of the night for the captain to ask me to see him. For what? What is it?" "He wants you," he says; "come over. Somebody wants to see you." I never suspected anything, what he wanted me for, and he took me over to the station house. The first reception he gave me was, "Buttner, I have got you." "For what?" "I have got you"—grinding his teeth. I says: "You have tried it before but you didn't get me right yet. Got me with what?" "Come in here." He took me in his room. There was sitting Magowan, with this same man that I have mentioned. I says: "How are you, Mr. Magowan?" never thinking anything any more; knew everything was settled. I was cool. "This man charges you with a robbery of \$2,600." "Well," I says, "it must have grown. It was only a thousand dollar bill that was taken from his pocket, and \$100 placed instead. That was only \$900. It has grown quick to \$2,600."

Q. What did you mean when you said that? A. His statement was first——

Q. Whose statement was that? A. Yes, sir; that it was a thousand-dollar bill taken out of his pocket and a hundred-dollar bill put in its place. I says: "that has grown quick." So, to shorten this, Captain Price tried, in every way, to corner me. I explained exactly how everything stood, how the circumstances were. But I might as well talk to a blind wall. He was going to railroad me. So he took me out to the desk and said: "Search this man." They searched me, even my shoes and stockings and under my shirt I was searched. I says: "Can I send out for counsel?" "No." "Can I send out for a cigar?" "No."

Q. With the lower jaw protruding in that way? A. That always extends. Like a bull dog. He would not allow me counsel or a cup of coffee or anything there. "If you bring an half a dozen justices here this time, you can't get bailed out." He brought me out from the cell four different times. He let me be brought up from that cell four different times and sent down; always cross-examined me while the chief was there. I explained



how it is exactly, as I explained to him. Naturally, the following morning, I was brought before the court. In the court we stood our hearing. The chief appeared against me, the inspector appeared against me, the captain appeared against me, about four of the wardmen and Mr. Magowan appeared against me.

Mr. Moss—I think we will remove the witness from the chair for a moment. I shall produce him again. I will call Albert J. Adams.

ALBERT J. ADAMS, being duly sworn, testified as follows:

Examined by Mr. Moss:

Q. You did not kiss the book. A. I did not touch it, no.

Q. Do you consider yourself bound by the oath? A. (Kissing the Bible) I touched it then.

Mr. Moss—It is immaterial to me whether a man touches it or not, if he considers himself bound. That is all.

The Witness—I consider myself bound. I own the building which is occupied by Silver Dollar Smith's place on Sixth avenue, and I recently renewed my lease of that building to him. I had no objection to doing it first. I don't remember being seen by someone, to ask me to make the lease to Mr. Smith. Inspector McLaughlin did not ask me to make the lease. I don't remember anybody asking me to make the least. I have been told I was to be served with a subpoena to appear here.

Q. Who told you that you were going to be subpoenaed? A. The New York "Sun."

Q. Do you know upon what authority they told you? A. I didn't go near them to find out.

Q. Was that your first intimation that you might be required to appear here? A. No.

Q. What was the first intimation you had? A. A party wrote me an anonymous letter, and said I would be subpoenaed.

Q. A party wrote you an anonymous letter? In what handwriting was it? Did you recognize it? A. I think I have got a card here with the handwriting.

Mr. Moss—I would like to see it.

The Witness (handing card to Mr. Moss)—This is not the writing. But there is the writing, and the other card was in the same writing.

Mr. Moss—I want to say to you, and I want to say it publicly here, that you were not in contemplation as a witness. We have never thought of calling you at this period. It was not in our minds to take up any such matter as you are connected with at this time. We have been concerning ourselves with matters that we thought were more important, and until it was stated in the newspapers that you had been served with a subpoena, it was never in my mind, and I am certain it was never in the mind of counsel, that you were even in contemplation as a witness. I am very glad to have this card, and the handwriting, because I am sure that there are people in this community who are black-mailing gentlemen and other persons by giving them pretended information that they are wanted here.

Q. Now, when you found out, or thought you had found out, that we intended to subpoena you as a witness, did you attempt to make any arrangement to avoid being called? A. I did not.

Q. Did you cause any attempt to be made? A. I did not.

Q. Did you go to any gentleman or send to any gentleman to have his influence used to keep you off the stand? A. To no one.

Q. Did you cause any offer of money to be made to any gentleman for that purpose? A. No.

Q. Do you know of any offer of money? A. I do not.

Q. You have not desired to be called as a witness, have you? A. I didn't care. I have nothing that I would not willingly tell here.

Mr. Moss—We are not prepared to examine you fully at this time; but from the information that came to me about matters

that were supposed to be going on, I thought it was just as well to have you here within the jurisdiction of the committee, and to subpoena you again. (Handing a subpoena to the witness.)

The Witness—All right.

Mr. Moss—That is a subpoena that calls for your attendance one week from to-day, the 24th.

GEORGE TWOHIG, being duly sworn, testified as follows:

Examined by Mr. Moss:

I was a waiter in the Broadway Garden while Mr. Buttner had it. I did not testify upon the trial in the Magowan case. I think all the other waiters testified that there was no theft. I had not testified, and therefore have not committed myself either one way or the other publicly. Some persons approached me recently, in order to get from me a statement concerning that robbery. Stephan first came to me. We went to the Manila Cafe, on Monday evening—last Monday evening. I mightn't remember the date. I think it was the 11th, wasn't it? I seen a man there by the name of Charlie Singer. Singer didn't say much to me. He says, "What will you have to drink?" I had a drink of claret and seltzer, and Charlie says to Singer, he says, "This is my friend, Mr. Twohig." He says, "This is Mr. Singer." And we had a couple of drinks, I suppose, and supper—Singer had supper; and then we were escorted to Mr. Schultz's hotel, the Holburn, at 43 West Twenty-fourth street, and we sat in the front part of his table d'hote restaurant, facing on Twenty-fourth street, and we had a little drink there, and Stephan told Schultz—introduced me as Mr. Twohig, his friend. He says, "This man also knows something about the Magowan-Buttner case." He says, "I think he knows a great deal more about it than I do." Then Schultz asked me to go upstairs. I went upstairs with Schultz alone. He says, "What do you know about the Broadway Garden?" He says, "About Magowan being robbed?" I says, "I know all about it." "Well," he says, "tell me what you know about it." And I told him a part

of the story that was pretty nearly all true, but I brought it in this way: That I had seen Magowan lose his money while shaking dice at the bar; but I didn't state how much money he lost. The transaction which I told him I had seen, was Magowan shaking dice for a quarter a shake, and he lost two shakes, which was half a dollar; and I stated to Mr. Schultz that I had seen Magowan lose his money while he was shaking dice at the bar; and I had also told him that we had got some money from Buttner not to say anything about it. I was told by Stephan that Buttner had given out this advice to us—to go ahead with these people and see what they wanted us to do. I understood, when Stephan went to me, that there was a plot to accuse my former employer of the robbery and to send him to prison for the simple reason that Stephan had told me that he had already seen Mr. Buttner in regard to the affair, and he told Mr. Buttner that this man Twohig, that worked there, hadn't given any testimony, and he says: "I have seen him Saturday night, and he wants to come in this game with me," he says, "to have a little fun out of it," or some words to that effect; and Mr. Buttner says, "Can you trust this man Twohig?" He says, "Certainly you can trust him. You ought to know him because he worked for you." He says, "I know him, but I discharged the man." I understood that there was a game to convict my former employer of something that he was not guilty of. I was willing to go into it to help Mr. Buttner out, because I really thought Mr. Buttner was honest. This part what I refer to now, where I know that there was some game afoot to down Mr. Buttner was this: That Stephan and Singer were together, and Stephan said that he didn't want to go down there, as he had already testified to Mr. Buttner's good character, and Singer says, "Oh, to the Devil with that," or some words to that effect. "Many is the man has gone down and swore to something that he has never seen before for a little money," and I think that Stephan told me that Singer promised him \$300. Singer told me there was money in it. He says, "Do you know all about the case?" I says, "I do." "Well," he says, "there is money in it." That is all Singer said. Whatever Singer had to say I think he told Stephan, probably



so Stephan would tell me afterwards. It was proposed that I and Stephan should go to the district attorney's office. That was proposed by Singer, if I remember correctly. I came in contact with Mr. Schultz several times. He didn't designate which way I should testify—either by affidavit or at the district attorney's office. But I was to testify. He told me I would have a job as long as I wanted it at \$5 a day, and that he would see me right and stake me to two or three hundred dollars, to make a book on the field in the race track. I had several interviews with Schultz about the matter. Singer never said much to me about it. I know something about the poolroom that Schultz kept. I was up there, I suppose, three or four times. It was running yesterday. I don't know Frank Farrell. I saw Stephan working in a manner. He was there, working, earning his pay. I did receive money from some of those persons. Schultz received \$31. I did not render him any service for the \$31. I was not in his employ at all, then. This was all in anticipation of my making affidavits and giving testimony, I believe, as near as I can think it. That was the understanding. The purpose was for me to swear that I seen Mr. Buttner robbed. The fact is I didn't see. I mean Magowan robbed. I never saw any such thing. Friday morning about 9.30, I don't know whether it was a police officer or not, but he was Mr. Curry of the Tenderloin precinct——

Mr. Moss—That is right.

The Witness—Is he a police officer?

Mr. Moss—Yes.

The Witness—He was there.

Q. What did Mr. Curry say? A. He said he would go up after the captain, the captain of the precinct. I don't know what captain it was. He didn't say. He did not do anything more. He left. He only stayed about five or ten minutes. He heard nothing at all. Schultz met me at the door and brought me in the back room, and said: "This is Mr. Twohig, Mr. Curry." And Mr. Magowan was there. Mr. Curry stayed about five minutes

and didn't talk about the case. He left saying he was going after the captain. In the meantime, I told the boy not to show up,—Stephan,—until I had reported to him at twelve o'clock, on the corner of Thirty-first street and Eighth avenue; and I stayed fifteen or twenty minutes, and I told Mr. Magowan that I would go up and look for the boy. Then went over to Eighth avenue and seen Stephan and two gentlemen that were with him, and I advised Stephan, with their advice also, not to come back until I had gone back in the afternoon. When I went back in the afternoon it was probably three o'clock, and Mr. Magowan was still there, and some tall gentlemen that I don't know his name. I didn't receive any introduction to this gentleman at all; and they wanted to bring me down to Captain Price. They said that the captain had been telephoning up all day, wanting to know if I had arrived. They said: "Let us take a walk." We walked as far as Twenty-third street and Sixth avenue. He says: "Hurry up; we can just catch the captain now before he leaves there." I says: "Where are you going?" He says: "Going down to see Captain Price." I says: "What for?" "Oh!" he says, "it is all right. You don't have to say a word if you don't want to." He says, "Just meet the captain in the inside room." I says: "Before we go down there I wish to state I am not going down this afternoon." We were going down somewhere, because we were on the side of the elevator, and he told me to hurry up and catch the train. I says: "I will not go down." He says: "Why?" "Stephan is not here," I says; "and I don't wish to go down alone; and certain other reasons that I don't wish to state." I says: "I don't know you." He looked at me in surprise. He says: "Well, we will go back to Schultz's house." I says: "Any way, I won't see the captain to-day." So we went back to Schultz's house, and went over to Mr. Schultz, to his poolroom, and he came over and got me to one side, and he says: "Why don't you wish to go down to-day?" I says: "The boy isn't here." I says: "I don't wish to go down alone." He says: "I don't blame you. Its all right." He turned around to this gentleman and to Mr. Magowan, and he says: "He is right. He wishes to get the boy. The boy is all

right and he will get him all right." The tall gentleman, who I don't know, asked Mr. Schultz if he could arrange for a meeting that night. Well, Mr. Schultz says, "Yes. Name some time," he says. "Twohig will be here any time." I says: "Yes, I will be here any time you say." He says: "How about nine o'clock?" "Any time will suit me. It doesn't matter much." I says: "I will hunt the boy up and I will be back." He says: "Is nine o'clock satisfactory all around?" I says: "Yes. I will be here at nine o'clock." So I had gone out in the meantime, after the conversation, and saw Stephan again, and told Stephan not to go around there at all; and neither one of us went near the place that night, and whether Stephan went there since or not, I don't know, but I have not been there since. I have not seen Captain Price at any time, in these conversations and meetings. I thought I had, one time, as I had it given out to that effect, but it was not Captain Price; it was some other man. I learned my mistake, no one seen me within a day or two, from the Schultz and Singer side, about my being subpoenaed, not since Friday, at 3 p. m. I don't think they knew that I had been subpoenaed: I did not notice that in all of these meetings and travelings that I was engaged in, I was followed and shadowed by your men, not until Friday. I discovered on Friday that all that I and Stephan were doing was being observed by men in the employ of the committee. But Stephan had already told me in the meantime that we were shadowed by your men, but I didn't know that I was shadowed until Friday, and then—I didn't know then that I was really shadowed, but I had met two men in your employ, Saturday noon—or I mean Friday noon.

RICHARD CROKER, being recalled, testified as follows:

Examined by Mr. Moss:

Q. What part of the business at 111 Broadway do you do? A. I don't do much of the real estate business.

Q. You do not buy or sell in that business? A. No.

Q. Nor conduct any auctions? A. No.

Q. Nor advise about the methods of that business, do you? A. No, I do not.

Q. You have practically nothing to do there except to give the benefit of your name, have you? A. Well, practically that. I don't do much there except a little, in the real estate line.

Mr. Moss—I want to ask you the amounts of the contributions of the candidates last year.

The Witness—I could not tell you.

Q. Can you tell the contribution of Judge Fitzgerald? A. I couldn't tell you.

Q. You know he made a contribution, do you not? A. I believe he did, but I couldn't tell you what it was.

Q. Did Judge Leventritt make a contribution? A. I should not wonder but I could not tell you that. It is filed in the county clerk's office, whatever it is.

Q. Are you sure that all he contributed is shown in the county clerk's office? A. I should imagine so. They swear to it.

Q. All they have sworn to is what they have spent for election expenses, is it not? A. I don't know anything about it.

Q. Do you understand that that includes what they voluntarily contributed before nomination? A. I presume what they swore to is right. I don't know anything further.

Q. That is to be presumed; but that does not answer the question. Do you look upon a contribution made before nomination as an election expense? A. I should think so; yes.

Q. You think it should be shown in the affidavit? A. I suppose that is all included in the expenses.

Q. Did Judge Scott make a contribution? A. That I couldn't tell you.

Q. Then, in the previous year, did the candidate for county clerk make a contribution? A. I suppose he did; they all went to the treasurer, I suppose.

Q. You suppose all the candidates upon the ticket went to the treasurer, do you not? A. I should imagine so; yes, sir.



Q. Do you know that amount? A. I couldn't tell you.

Q. Did either of these officers, the county clerk, registrar, mayor, district attorney, coroners— A. I couldn't tell you.

Q. In each case they would be expected to give some thousands of dollars, would they not? A. That I don't know. That all lies with themselves.

Q. Is there any account taken of what they gave? A. No account.

Q. Is there any book showing what they gave? A. Not that I know of.

Q. Is there any man's memory that has recorded in it the amount they gave? A. I couldn't tell you that.

Q. You never heard of anyone, and from your position could not recommend me to anyone who could be more specific than yourself? A. I could recommend you to nobody.

Q. Do you not know as much as any one in the Tammany Hall organization about these matters? A. I don't know about that. There are some smart men there.

Q. You are on the finance committee? A. Yes, sir.

Q. Still? A. Yes, sir.

Q. If any of those moneys were banked, where were they banked? A. I couldn't tell you that.

Q. Were any of them banked in the Garfield Bank? A. The treasurer will tell you that, probably.

Q. Contributions are made by candidates prior to their nominations, are they not? A. That all depends how he feels about it—the candidate. Probably he might delay it. He might do it before. Just as he pleases.

Q. But if you did not know the financial standing of a candidate, would you not expect that he would show his contribution before he was nominated? A. I don't think so. Never asked to show it, I don't believe.

Q. You have never lost any money by trusting in these matters? A. Not as I know of. I never tried to look.

Q. Have you ever heard of candidates borrowing money from their friends to make their contributions? A. No.

Q. Never heard of that? A. No.

Q. Those are questions that you have not thought of, are they?

A. Nothing to do with those matters, whether they borrow or how it is done.

Q. So long as they pay it, it is all right, is it not? A. I don't know. You ought to know a little about that. You have been on those.

Q. You are on the Tammany finance committee, are you not?

A. You have been on those yourself.

Q. Not in Tammany Hall? A. No; for Roosevelt. You have been on the Bowery yourself.

Q. Are these Bowery matters—these assessments or receiving contributions from candidates? A. You ought to know it. You are always examining the Bowery business.

Q. I ask you? A. I don't know that.

Q. You do not know anything about the Bowery business, do you? A. No particular place.

Q. You do not know anything about the Bowery business, do you? A. Not much.

Q. When you said that the accusations that the Bowery was wide open were untrue, you did not know anything about it? A. I didn't say it was wide open.

Q. You said the allegations that it was wide open were untrue. You did not know what you were talking about, really, did you? A. I didn't say anything about the allegations at all.

Q. You denied that the city was wide open, did you not? A. I did not; no, I did not.

Q. Did you not? A. No, I did not—either wide open or wide shut; either one.

Mr. Moss—I think we will have to refresh your recollection on that, a little later.

The Witness—You want to close it up tight.

Mr. Hoffman—You asked that question of Chief Devery.

Mr. Moss—I am referring to interviews in the public press, which undoubtedly were correct, about the position Mr. Croker

took, as a matter of public knowledge—that when Mr. Matthews announced that the town was wide open and others announced it upon public platforms, did you not say that those accusations were not true?

The Witness—I don't remember. Did I testify before you to that effect?

Mr. Moss—No; you have not testified upon that point yet.

The Witness—You are reading the papers, aren't you?

Mr. Moss—I am reading your interviews, not in the "World," but made at the time in all the papers.

The Witness—This is the place to get true knowledge; just where I am sitting now.

Q. Did you then deny that the city was wide open? A. That I don't remember.

Q. Did you know whether it was or not? A. I don't know whether it is, or whether it is not, wide open.

Q. If you said anything about it you simply spoke in a general way, did you? A. I don't remember saying anything about it, either one way or the other—about its being wide open or shut.

Q. Now, I ask you again, as a member of the finance committee of Tammany Hall, is there any way of getting at the facts, as to who have contributed, and the amounts that they have contributed, to the organization expenses? The candidates, I mean? A. You go to the county clerk's office and you will get it.

Q. That is the only answer that you can give me? A. That is all.

Q. There are no records in Tammany Hall? A. No.

Q. What is there to show how the moneys which they contributed were spent? A. You have got to take their word for that.

Mr. Moss—It is not a question of their word. They gave you the money.

The Witness—They didn't give me the money.

Q. They gave your committee the money, did they not? A. I haven't testified to that. They give it to the treasurer.

Q. They gave your officers the money? A. No officers.

Q. Some official—the treasurer? A. The treasurer, probably.

Q. Is there any way of showing exactly how those moneys were spent? A. The treasurer can show.

Q. Is there any way of showing whether you received any of those moneys yourself? A. Not as I know of.

Q. You do not know of any way that will show whether that was so or not? A. No, sir.

Q. Did you?

The Witness—Did I receive any?

Mr. Moss—Yes.

A. Sometimes I have and sometimes I have not. Whatever I received I turned them over to the treasurer.

Q. You mean to say that everything you have received in the way of contributions or assessments, whichever we may call them, have been turned over to the treasurer? A. Over to the treasurer.

Q. Do you know whether they have been banked? A. That I don't know.

Q. Is that so, with reference to all the contributions that have been received for election purposes? A. Every one of them.

Q. How much was received in the campaign of 1898—that is, the gubernatorial campaign—from the Metropolitan Street Railway? A. I don't remember anything.

Q. Was anything received from that railway? A. Not as I know of.

Q. Was anything received from anyone interested in the railroad? A. Not as I know of.

Q. Was not a large contribution towards the election expenses made by the Metropolitan Railroad, or persons interested in it? A. I never heard of it.

Q. You never heard that \$750,000 was contributed by that railroad to the expenses of your organization? A. Never heard of such a thing.

Q. Never heard of it? A. No.



By the Chairman:

Q. I want to call Mr. Croker's attention to the fact that the other day he testified that moneys that were received were deposited in bank and then drawn out a few days before election. Do you recollect that? A. Yes, sir. I say they were deposited by the treasurer, I presume; kept in his bank, and then he drew before election from his own bank.

Q. You do not know what bank that is? A. No; I do not.

By Mr. Moss:

Q. Do you know what contribution was received from the New York Life Insurance Company? A. I don't know that they ever gave any. Not to my knowledge; no.

Q. Or the New York Telephone Company? A. None at all that I know of.

Q. Or the Consolidated Gas Company? A. Not that I know of. Nothing at all.

Q. Do you mean to say definitely that as a member of the finance committee, you have no knowledge of any contributions being made by either of those concerns? A. Yes, sir.

Q. Will you say the same thing about the election of 1897—the mayoralty election? A. Yes, sir.

Q. What was the total amount of contributions received for the election of 1897? A. That I couldn't tell you.

Q. Is there any record that will show how much was received? A. Not as I know of.

Q. Is there any record that will show how much was disbursed? A. Not that I know of.

Q. And for what? A. I couldn't tell you.

Q. Do you make the same answers with reference to the election of 1898? A. Yes, sir.

Q. Do you know how much money was received in the campaign of 1897 from office holders? A. I couldn't tell you that.

Q. Was there money received from office holders? A. I think there was.

Q. Is there any account of it? A. No, sir; not as I know of.

Q. Do you know how much money was received from office-holders in 1898? A. I couldn't tell you that.

Q. Is there any way of finding out? A. Not from me; there is not.

Q. Do you know how much money was received from the police department for election expenses in 1897? A. Not a dollar, to my knowledge.

Q. How is it that you are more definite with reference to the police department than you are with reference to officeholders? A. Because officeholders do.

Q. Because you know they do? A. Yes, sir.

Q. Do you not know that the police department does too? A. I don't know it.

Q. I do not mean of course, as a matter of expenses, that goes into their records and into their public accounts; but I mean out of their pockets in any way? A. Not as I know of. They haven't sent a dollar to me.

Q. And you say the same about the election of 1898? A. Yes, sir; so far as I know.

Q. Do you know whether Mr. Carroll has an account in the Garfield Bank? A. I couldn't tell you that.

Q. Do you know what Mr. Carroll does in the Garfield Bank daily? A. No, sir; I do not.

Q. Do you know what banking business he has there? A. I don't know.

Q. Is he in receipt of a salary from you? A. No, sir.

Q. Is he in receipt of a salary from the organization? A. Not as I know of.

Q. You do not know how, then, he keeps up his appearances and his establishment? A. I am not answering for him. He probably will be able to.

Q. You do not know? A. I don't know.

Q. You have no information on the subject? A. No, sir.

Q. You do not think it is a matter of consequence that you should know the finances or the financial status of the deputy

leader of your organization, do you? A. No, sir; I do not; I am not looking into his business at all.

Q. And you do not know what those financial transactions are that he has, do you? A. No, sir; I do not.

Q. How much money have you received from his hands during the last year? A. Not any.

Q. How much money have you received directly or indirectly from him during the last year? A. Not any.

Q. Will you say the same with reference to Mr. Freedman? A. No, sir; I won't.

Q. What will you say about Mr. Freedman? A. We have received money from Mr. Freedman; our firm has.

Q. You have? A. No, I have not, personally.

Q. The auctioneer firm? A. Yes, sir.

Q. What kind of money? A. Mr. Freedman has sent checks to us.

Q. For real estate transactions? A. Real estate and other transactions.

Q. What other transactions? A. My connection with the firm.

Q. With Mr. Freedman's firms? A. Yes, sir.

Q. What firm is that? A. That is the Guarantee Title Company.

Q. You mean a company that examines real estate titles? A. No, it is a bond company, and title company.

Q. Do you mean the United States and Fidelity Company? A. Yes, sir.

Q. Then you are interested with Mr. Freedman in that company, are you? A. A little bit.

Q. Do you own stock in it? A. Not much; very little.

Q. You own some? A. Yes, sir.

Q. And you receive dividends on it, do you? A. Yes, sir.

Q. And have all those dividends come into Peter F. Meyer & Company? A. Yes, sir.

Q. Is Mr. Carroll interested in that bond company, too? A. No, sir.

Q. Is Mr. Sexton? A. No, sir.

Q. Are other members of your family? A. No, sir.

Q. Do you know that all of the bonded officers of the city government take out their bonds through that company? A. Not all.

Q. Nearly all, then? A. Some from your boss's company.

Q. From some of the other companies, you say? A. From your boss's company.

Q. From my boss's company? A. Yes, sir.

Q. You can have your own way about that. What officers of the city government take out bonds from the other boss's company, as you put it? A. I refer, yes, sir, to your boss's.

Q. Do you mean Mr. Platt's company? A. Yes, sir; you know who I mean.

Mr. Moss—Well, we will call it Mr. Platt's company.

The Witness—Oh, you knew who I meant well.

Q. Now you have had your pleasantries and you will please answer questions. What officers of the city government take out bonds or have taken out bonds in any other company than yours? Do you know?

The Witness—In any other company?

Mr. Moss—Yes.

The Witness—Besides ours?

Mr. Moss—Yes.

A. Probably in Mr. Platt's.

Q. No; what officers?

The Witness—That takes bonds?

Mr. Moss—Yes.

A. That I couldn't tell you. I couldn't tell you the ones, exactly. I would have to get the list to know.

Q. What would you think of a good Tammany man who would go to Mr. Platt's concern to take out his bonds? A. I think there is some goes there.



Q. Do you know them? A. No. I have heard they have been there. He has been cutting the rates.

Q. Even though he has cut the rates, you have the majority of the business, have you not?

The Witness—In the city?

Mr. Moss—Yes.

A. I presume we have.

Q. How is that? A. He has got it in the State.

Q. He has got it in the State? A. Yes, sir.

Q. We will put all the burden that ought to be put on anybody that is doing that sort of business, you and him included? A. Yes, sir.

Q. We are talking about city affairs. What do you think of a city official who takes advantage of Mr. Platt's cut rates to take out bonds in his company? A. He has that privilege.

Q. Do you consider him a good Tammany organization man, to do that? A. Yes, sir.

Q. But you do not know any of them, do you? A. I have heard of them.

Q. How many have you heard of? A. I could not tell you the number; I never kept tab of them.

Q. Have you heard of any considerable number? A. Several.

Q. Let us see. Of course as leader you control the district leaders, do you not? A. Partly, yes.

Q. They act in harmony with you, do they not? A. Pretty well.

Q. And your advisers generally have been satisfied as to the heads of departments? They are in line with you, are they not? A. Yes, sir, pretty well.

Q. And you say it was their business, as members of the organization to make their appointments in line with the will of the organization? Have you not said so? A. Yes, sir.

Q. And you say so still? A. Yes, sir.

Q. And it is necessary for a good many of them to take out bonds, under the law, is it not? A. Yes, sir. Some have.

Q. So that you who are the head of the appointing system in this city have an interest in the concern to which most of them go to get their bonds? A. Yes. I have just testified to that.

Q. That is true, then? I am simply recapitulating? A. Yes, sir.

Q. And you take your dividends from the bonds which are swelled by the officials whom you appoint, do you not? A. I don't appoint the officials.

Q. Who are appointed in conformity with your desires? A. I don't interfere with the officers. They appoint whoever they please.

Q. If you made a very serious objection to an appointment of a head of a department, do you suppose he would be appointed?

The Witness—By whom?

Mr. Moss—By anybody? By the mayor?

The Witness—The head?

Mr. Moss—Yes.

The Witness—I think he would probably, if he took a notion to.

Q. Do you know of anyone he has appointed contrary to your wishes? A. Yes, sir, I do.

Q. Who? A. There was one man appointed that I didn't know anything about.

Q. Is he unsatisfactory to you? A. Not a bit. He is a good man.

Q. Do you know of anyone that the mayor has appointed that is unsatisfactory to you or is not in line with your wishes? A. There has been several appointed I knew nothing about until they were appointed.

Q. But they were men in line with you and your affairs? A. Very good men.

Q. Of course; very good men? A. In my opinion.

Q. Have you any idea what the number of city officers is that have taken bonds in your company? A. I couldn't tell you that.

Q. Is your personal account banked in the Garfield bank? A. I object to answering that question.

Q. Where is your personal account banked? A. I object to that question.

Q. Sir? A. I won't answer that.

Q. You will not answer that? A. That is my private affair.

Q. Have you more than one place in which your moneys are banked? A. That is my private affair.

Q. Do you keep more than one bank account? A. The same answer.

Q. Do you keep one bank account for the income of your business at 111 Broadway and the income of the Surety Company, and another bank account for political moneys that come in? A. I just told you, Mr. Moss, that was my own private business.

Q. You can say it again. A. There is no use in wasting time. If you want to conduct this examination as a gentleman——

Q. Now, Mr. Croker, hold on. If I am not a gentleman it is not your fault? A. But if you are going to bully people you won't get along. You can't bully at all. Just act like a gentleman and you will get along all right.

Q. It would be a very strange thing to conceive it possible that I could bully Mr. Croker? A. You have been trying to do it.

Mr. Moss—Then I am a larger man than I thought I was.

The Witness—Maybe if you were a little larger you could do it.

The Chairman—I think we can get along by asking and answering questions, without this ungentlemanly colloquy. Let us be fair and straightforward.

The Witness—I don't believe you are going to protect me at all.

Mr. Hoffman—Any explanation you desire to make you can make.

The Witness—You are naturally here to protect him and protect the people that appointed you, and I don't want any protection at all. I only want fair play.

The Chairman—That is all we expect, and all we ask—fair play.

Q. Do you ever meet Mr. Carroll at the Garfield bank? A. No, I do not.

Q. Do you ever meet him at any time when he is handling money?

The Witness—How do I know, I do not?

Mr. Moss—Yes.

The Witness—How do you know you are standing there?

Mr. Moss—I conceive it entirely possible that you could meet him when he was handling money and not know it.

The Witness—And I not know it?

Mr. Moss—Yes. Just as I might meet you when you were handling money and not know it.

The Witness—You must be satisfied with my answer.

Mr. Moss—I am a little surprised at the quickness of your answer.

Q. Do you own the athletic club building at Fifty-fifth street and Sixth avenue? A. No, sir.

Q. Did you ever own it? A. No, sir.

Q. Was the title in your name? A. No, sir.

Q. Were you ever interested in the building? A. No, sir; not interested in the building, no.

Q. Were you ever interested in anything connected with the building? A. The Democratic club owned it.

Q. Did you not have a personal interest in it? A. No more than any member of the club.

Q. When was the Democratic club organized? A. The Democratic club was organized eight or nine years—probably twelve years. I have not been a member of it from the beginning.

Q. But recently it has become very active under your immediate inspiration? A. It has been reorganized within the last eighteen months.

Q. You reorganized it? A. Yes, sir, I helped it along.



Q. You not only helped it along but you inspired it? A. I don't know. There are others inspired it with me.

Q. You gave it your personal attention and personal residence? A. I did all I could for it.

Q. You did all you could and that means a great deal. Then the Democratic club owned that building? That we have agreed upon. The club found that that building was not suitable for its purposes, did it not? A. Yes, sir.

By the Chairman:

Q. Did I understand that the title is in the name of the Democratic club? A. Yes, sir.

Q. It is? A. Yes, sir.

By Mr. Moss:

Q. Is it still, is it? A. I believe it is. They have sold it, you know.

Q. Have they sold it? A. Yes, sir.

Q. For what price? A. I think \$170,000—I think. I wouldn't be sure.

Q. One hundred and seventy thousand dollars? A. I think so. That I won't be sure.

Q. To whom was it sold? A. To a man by the name of Mr. Praeger.

Q. Were there any leases on the building when it was sold? A. Yes, sir, I think so.

Q. To whom?

The Witness—Lease?

Mr. Moss—Yes.

The Witness—What sort of lease?

Mr. Moss—Lease to anybody. Was the building or portions of it let to anybody? A. No, it is empty—vacant.

Q. Were there any persons who had leases or options upon the building? A. Not that I know of.

Q. Had it not been arranged with two of the city departments that they should occupy a room in that building? A. I believe there was some talk about it.

Q. And that was understood at the time the building was sold to Mr. Praeger, was it not? A. I think not.

Q. How? A. Not as I know of. I don't think so.

Q. What is the talk about two departments going into that building? What departments? A. There was two departments coming in—the building department and the aqueduct department, I heard.

Q. You heard it? Who from? A. General rumor.

Q. Only general rumor? Do you mean to say that the building department is going up to Fifty-fifth street and Sixth avenue? A. That is the talk.

Q. And you know nothing about it except what you have heard in a general way? A. I have heard it, yes, sir. I heard it around.

Q. Did you read it in the newspapers? A. Yes, sir.

Q. Did you hear it talked of in the Democratic club? A. I have heard it talked of.

Q. When did you first hear of it? A. I think I first heard of it about two weeks ago.

Q. Only two weeks ago? A. Two or three weeks ago.

Q. Did you not hear of it before Mr. Praeger took title? A. Oh, no.

Q. How has Mr. Praeger succeeded in getting departments to move up to that building? A. I don't know.

Q. Do you think that it is advisable for the building department to go away up to Fifty-fifth street and Sixth avenue? A. I don't know. That is for them to decide that. They are the best judges.

Q. Do you think it is best for them to separate themselves so far from the other city departments? I ask you now as a statesman and as a prominent man in the community?

The Witness—You ask it as a statesman?

Mr. Moss—Yes.

The Witness—You are a statesman? He said he asked as a statesman.

Q. I am very glad that I asked you in that way, because it has given you a chance to recover your good humor, and we always like to have you good humored. A. I am always in good humor—on the stand here, anyway.

Q. Not always? A. You don't know me.

Q. Is Mr. Praeger a member of the Democratic club? A. I believe he is. I ain't sure about that.

Q. Do you not see him there? A. Very seldom. There are people come there that are not members.

Q. What is his first name? A. I couldn't tell you his first name.

Q. Do you mean to say that this transaction is entirely without interest to you? A. Very little interest to me.

Q. Do you know how much rent the building department is going to pay up there? A. I couldn't tell you.

Q. Do you know how much rent the other department, the aqueduct department is going to pay? A. I couldn't tell you that.

Mr. Moss—I want to ask you what you paid for your stock in the United States Bond Company.

The Witness—I decline to answer that.

Q. Why do you decline to answer that? A. That is a personal matter.

Q. Now, that is a company, that, as you have yourself stated, bonds the city officers, and a very great many of them—officers who are directly related to you in the matter of appointment; and I ask you again, considering that fact, whether you have paid for your stock? A. I can't answer that question. You will have to excuse me.

Q. Do you mean to say that you cannot or that you will not?  
A. I would rather not. It is my own personal matter.

Q. You really think that is a personal matter, do you? A. Oh, yes.

Q. Will you swear that you paid for that stock? A. I decline to answer.

Q. You decline to answer? A. On that ground. It is personal.

Q. On that ground alone? A. Yes, sir.

Q. Was the stock given to you? A. I decline to answer.

Q. Did you get the stock upon the formation of the company?  
A. I don't wish to go into that.

Mr. Moss—I request the committee to direct the witness to answer all of those questions.

The Chairman—The committee will so direct.

Q. Will you answer? A. No, sir.

Mr. Moss—Please to record the gentleman's refusal to answer all of those questions, concerning—

The Witness—My private business.

Mr. Moss (continuing)—Concerning his getting the stock, and whether he paid for it or not, and whether he got it at the organization of the company.

Mr. Hoffman—Record also that he declines to answer upon the ground that it is a private and personal matter.

The Witness—That is the objection. It is a private and personal matter.

Mr. Moss—I think that is very fully on the record.

Q. Did Mr. Freedman organize that company? A. I believe he helped to organize it.

Q. He is the vice-president of it, is he not? A. Yes, sir, I think he is. He is the director, not vice-president. He is the director for this part, New York. Manager and director for New York.



Q. For New York city? A. For New York city, I think—or State. City.

Q. He is a close friend of yours, is he not? A. Yes, sir. He is a pretty good friend of mine.

Q. You and he are in together in a good many corporations and deals going around? A. That is what you say.

Q. Is it so? A. No, it is not so.

Q. Are you together in any other matters than this bond company? A. Not as I know of.

Q. Are you interested in the Maryland Whiskey Company? A. No, I am not.

Q. Is anyone interested in it that is related to you? A. Not as I know of.

Q. Have you owned any stock in the Flushing Gas Company? A. No, sir.

Q. Never? A. Never.

Q. Has any member of your family owned any stock in that company? A. Not as I know of.

Q. Why is not that a question under personal privilege? A. I don't know. I have got to answer some questions. I must reserve some on my own judgment, you know. If I didn't answer them I would sit here and not answer anything at all.

Q. Have you any stock in the New Amsterdam Gas Company? A. No, sir.

Q. Have you any interest in it? A. No, sir.

Q. Have you ever had? A. I had at one time.

Q. When? A. Long before the introduction of the Astoria bill.

Q. When did you part with it? A. I parted with it at least ten days before the vote was taken on the Astoria bill.

Q. At least ten days? I thought you said it was a long time? A. Yes, sir, I held the stock a long while; but when that question came up in Albany I got rid of it.

Q. Why did you do that? A. Because I didn't want to be mixed up in that business, owning the stock.

Q. To whom did you give that stock? A. I didn't give it to anybody. I sold it. I didn't own the stock out and out; only on a margin.

Q. You do speculate on margins, then, do you? A. Yes, sir.

Q. You were 7,000 shares short on Manhattan, were you not? A. That is what you say.

Q. Were you? A. Well, now, I will tell you. I will answer that for you. No, I was not. I will relieve you on that. I will answer the Bourke Cochran thing to you. That never happened at all. If you acted as a gentleman——

Q. Not as I put it? A. (continued) As you are now at this present time. The other day I would have told you that, too.

Q. Did it not happen as I put it? A. No.

Q. It happened a little differently? A. No.

Q. You never had any transactions with Bourke Cochran? A. No, sir.

Q. No conversation with him? A. I have talked with him, but not on any money questions. Not a dollar ever passed between either one of us. Now you are satisfied, are you?

Mr. Moss—No, I am not satisfied.

The Witness—No, I know you ain't. You are never satisfied when you face the music.

Q. Then you were not short 7,000 shares of Manhattan? How much were you short? A. None at all.

Q. None at all? A. Not a share.

Q. You do not do all your business in your own name, do you?

The Witness—Do I?

Mr. Moss—Yes. A. When I buy stocks I do.

Q. You have got your friend, Andrew Freedman, around? A. He never buys stocks.

Q. He never was short of Manhattan? A. That I don't know. That is his affair.

Q. He never lost \$27,000 in Manhattan stock? A. That I don't know. You must talk to him about it.

Q. You never had any interest in his loss? A. Speak to him. I am driven off——

Q. You do not care anything about whether he lost money or not? A. No, I have got nothing to do with his affairs or anything of that sort. He can speculate wherever he likes.

Q. What is there in your holdings of gas stock in a margin that should be at all calculated to be mixed up in the Astoria gas bill business? Why should you have been so tender on a matter where you had only bought stock on a margin? A. I didn't want to be implicated up in any question where there was any legislation on it, and a fight between the two parties.

Q. Your political friends and associates had stock in the Amsterdam Company, had they not? A. That I don't know.

Q. Well, did they not? A. Maybe they had. I am not here to testify that they did not.

Q. Maybe they had? A. Maybe they had.

Q. They told you they had, did they not? A. I ain't sure of that.

Q. You are not sure that they did not? A. No, nor they did; either one.

Q. You are good enough a Tammany man, and true to your associates enough, to stand by them when their interests are jeopardized? A. That is their money question, is it not?

Q. You will stand by them just as much as you expect them to stand by you? A. On party measures, yes, sir.

Q. On party measures and their interests? A. It all depends on what interests you refer to.

Q. The interests they might have, had they owned stock in a rival concern? A. I would stand by them in a matter of that kind.

Q. What fight? A. The fight that occurred up there between the two parties.

By the Chairman:

Q. What occurred in the fight? A. I mean when the lines were drawn in that measure that you had.

Q. What do you mean? A. The fight up there. We took one side and you the other—on the Astoria bill.

Q. Do you not know that twenty Democrats voted on the Astoria bill?

The Witness—New York men?

The Chairman—Not all New York men.

A. I am talking about the Assembly. There was only one man in the Assembly voted for it. Mr. Moss is finding fault with us because we corrected him.

Q. Do you not know, as a matter of fact, that the opposition to the passage of the Astoria bill was by reason of the fact that you and your friends and the members of the Democratic organization held stock in the New Amsterdam Company, which was a rival company? A. I don't know that.

Q. Is not that true? A. It is not true.

Q. Before you said you did not know it? A. No, I say I don't think it is true. They may and they may not. I don't think they did.

Q. You will not swear that that is the fact? A. No, no more than I would that you owned stock in the Astoria.

The Chairman—I will tell you as a matter of fact that I never did.

The Witness—I can say, as far as I am concerned, that I owned in the other, but not up to within two weeks of that fight; and I stopped.

Q. You thought that was a good time to get out? A. Yes, sir; it was a good time, and not get mixed up in stocks.

By Mr. Moss:

Q. You thought the stock might go down, didn't you? A. I did not. It might and it might not. Politics don't always affect stocks.



By Mr. Hoffman:

Q. I would like to ask Mr. Croker one or two questions. Is it not a fact that the reason the city authorities opposed that bill was because it gave away a franchise worth twenty millions of dollars without a dollar of consideration to the city of New York? A. Yes, sir; I think it was; and taking the power away from the city authorities.

By the Chairman:

Q. Do you not know, as a matter of fact, and as a matter of law that the city authorities couldn't— A. (Interrupting) I don't think any money, stock or anything else cut any figure in it at all.

Q. Do you not know, as a matter of fact, and as a matter of law, that the city authorities could not grant that franchise that was asked for? A. No, I know they could not. I don't believe they could. We could get a franchise of that kind, though—the city could—if it wanted it for itself.

Q. Do you not know also, as a matter of fact, that the Democratic administration in Albany, in 1892, granted to the New Amsterdam or East River Company the same franchise that the Consolidated Gas Company asked for in this bill—the so-called Astoria bill? A. I don't know anything about that. What was it; a tunnel?

Q. A tunnel under the East River.

The Witness—City authorities granted it?

The Chairman—No, the Democratic Legislature in 1892, by bill passed by the Democratic Legislature and signed by a Democratic Governor.

A. I don't know about that.

Q. Do you not know also that this Consolidated Gas Company asked for this bill in order that it might be a competitor to the New Amsterdam Gas Company, which practically now has a monopoly of the right to cross the East River? A. No, I did not

I thought this was done for the purpose of making a monopoly out of the gas of New York.

Q. Do you not know now that the Amsterdam Gas Company has the only pipe or line of pipe under the East River? A. Yes, sir, I heard it.

Q. Do you not know that this bill was for the purpose of enabling a rival company to get the same advantages as the New Amsterdam Company, and in order that they might compete on equal terms? A. That I don't know.

By Mr. Hoffman:

Q. Is it not true that as a matter of fact where in 1892 the Legislature granted to this New Amsterdam Company the right to lay these mains, it was upon a condition that was set forth in the act that the price of gas should be reduced twenty cents per thousand cubic feet? A. Yes, sir.

Q. And no such idea is in the bill in relation to the Astoria? A. Yes.

By the Chairman:

Q. You know also that in this Astoria bill no such franchise was asked for as was granted in the bill in 1892? That is the right to lay pipes?

Mr. Hoffman—You had better look at the bill. You will find it.

A. They have the pipes all laid. All you want is a pipe across the river and touching each shore. The pipes are all laid.

Q. The pipes are all in the streets, and they did not ask for any such franchise as the other company did? A. They had the franchise all right.

The Chairman—Now, we have the matter fairly on the record and we can proceed.

Mr. Hoffman—You have only one side of it. You had better have the other side.

By Mr. Moss:

Q. Have you an interest in an asphalt business? A. Not at all.

Q. Never had? A. No, sir.

Q. No interest in a Venezuela Company? A. None at all. Mr. President, I would like to have that read, if I knew any of my friends in the Amsterdam Company.

The Chairman—We will take the statement now.

The Witness—Some of them I have heard did hold stock.

Mr. Moss—He wants to set the thing right, and he says some of his friends had stock in the Amsterdam Gas Company.

The Witness—I have heard of it.

By Mr. Moss:

Q. Will you tell us who the friends are? A. That I won't say.

Q. You decline to say? A. No; I would rather not say, at this time.

Q. Do you not know that the Flushing Gas Company wished to get into the city at one time? A. I never knew of it; no, sir.

Q. Do you not know that instead of letting it into the city they were allowed to increase their work over on that side of the river, by putting in a thousand more lights? A. I never heard of that.

Q. You never heard that 20 per cent. of the stock was given to a friend of yours at that time? A. No, sir; never heard it intimated. I don't know anything about it at all.

Q. As to this United States Fidelity Bond Company, has not your company any State bonds at all?

The Witness—This company?

Mr. Moss—The company you are in; yes.

A. No; not as I know of. I am not very familiar with that.

Q. You are not familiar with it? A. Not very; no.

Q. Did you give your son, Frank Croker, \$17,000 with which to buy his stock in the Roebling Construction Company? A. I decline to answer.

Mr. Moss—That is a matter we have been over a great deal, and I request now that the witness be directed to answer.

The Chairman—The committee will direct Mr. Croker to answer the question. We consider it material and relevant.

Q. The same answer? A. The same answer.

Q. How much stock of the Auto-Truck Company have you? A. I decline to answer that.

Mr. Moss—Will you direct him to answer that?

The Chairman—The committee will direct Mr. Croker to answer the question.

The Witness—The same grounds.

Q. Did you pay for your interests in the Auto-Truck Company? A. I decline to answer that.

The Chairman—The committee will direct Mr. Croker to answer the question as material and relevant and within the line of investigation.

The Witness—It has got nothing to do with the city affairs; on the ground that it has nothing to do with the city affairs—the Auto-Truck; a private concern.

Q. Have you any stock in the Westinghouse Electric Company? A. No, sir.

Q. Has your son Frank? A. Not as I know of.

Q. Do you know anything about it? A. No.

Q. Are the heads of the tax office or the tax department men that are in line with your organization? A. I think they are pretty good men; yes.

Q. You are satisfied with them, are you? A. I think so; yes, sir.

Q. You know that that is a very important part of the government, do you not? A. Yes, sir.

Q. And as a statesman, have you ever considered the powers and the rights of men to tax their fellow men? You have thought of those things, have you? A. Yes; I think they are competent men. From what I see and know about them.



Q. Do you not think it an important matter for the organization to be thoroughly represented in the tax department of the government?

The Witness—The organization?

Mr. Moss—Yes; the organization that is responsible for the government?

A. Of course I do; in all branches of the government.

Q. Yes; but that is an especial branch? A. No more than any other.

Q. The branch that levies taxes upon the people should certainly be in line with the political control of the administration, should it not? A. Not as I know of. It is not necessarily so.

Q. There is some patronage connected with that department, is there not? A. Yes, sir.

Q. A considerable amount of it? A. All civil service.

Q. Are all the employes of the tax office men who have got there by civil service examination? A. Very near all of them.

Q. Are there not a great many confidential men there now? A. I am not in a position to say it exactly, but I should presume that a great many of them were appointed by civil service.

Q. Do you not know that there are some thousands of men that have been appointed in different departments under this administration, in positions of confidence or in positions of labor, who have never passed through any civil service examination? A. No; I don't know that.

Q. Do you not know that that is a method that your organization has adopted to get its men into departments without having to pass their civil service examinations? A. We generally comply with the law when we have it. I think the city would be better off without civil service.

Q. That is your opinion? I am glad to have you give it? A. That is my opinion. I think it is an obstruction to the city government.

Q. Have you not now in the department men who are rated as laborers who are performing clerical work? A. Not as I know of.

Q. If they were, what position would you take, as the leader of the organization, which would be held responsible for the spirit of the administration? Supposing you should find that there are men rated as laborers who are really doing clerical work, what would you do? A. I couldn't tell what I would do.

Q. Would you oppose it? A. Have you got me on here as an expert on that now? Expert testimony?

Mr. Moss—Yes; I think you are an expert.

A. I don't know what I would do.

Q. As the leader of the party, when I tell you that there are men, members of your organization, appointed by your heads of departments, who are carrying men who are ostensibly laborers, who are doing clerical work, and that for the purpose of evading the Civil Service Law, what would you do about that, if anything? A. I don't know. I am not prepared to say what I would do. If I was a commissioner, I don't know—I might take a different action from what I suggest now. I am not directing those sort of things.

Q. As a leader you do not propose to take any attitude, then, with reference to that matter? A. I don't direct matters in departments at all; nothing to do with it.

Q. You are anxious that your department shall reflect credit on your party, are you not? A. Yes, sir; we are.

Q. And carrying that in mind, that you want the departments and offices of the government to reflect credit upon the party that elected them, what do you think you should do, if anything, if that is the condition of affairs? A. I should not—I couldn't tell you what I would do at present unless I was a commissioner. Then I might act differently.

Q. Not being a commissioner, but the man that can discipline the commissioners in the party—is that a matter in which you inflict discipline if they were evading the law? A. I couldn't tell you what I would do on that, unless I was in the department.

Q. Then you have no distinct thought on the situation? A. No. If I had a very good man in there that could do clerical duty, and

I was a commissioner, I might appoint him. I might detail him as a laborer. Even if he is a laborer, if he is a good smart man, I would detail him there.

Q. Of course, you could get a clerk, who might not pass the civil service examination? A. He might not. It might be necessary to put him there until you got one to take his place.

Q. Supposing these people have been kept in the office since the administration began, what do you have to say? A. If they comply with the law I see no harm in it.

Q. You see no harm in taking a laborer and making a clerk of him? A. If they comply with the law.

Q. Is that complying with the law, in your judgment? A. I don't know what the law is in that respect. I couldn't tell you. They should not do it if it didn't comply with the law, in my opinion.

Q. Supposing that a department like the comptroller's office is employing over 100 experts—expert examiners—who are carried entirely as emergency men and have been carried for many months in that way, without having gone through civil service examinations, would you consider that a matter about which you as a leader of the party should inquire? A. If they kept within the law it is all right, I should think.

Q. You do not care about the practice of the law, if they keep within the letter of it, do you? A. If it was a convenience to them and they thought they were doing well for their department, I suppose it is all right. I believe each commissioner should be his own civil service examiner in his own department.

Q. You believe that, and you, as leader of the party, believe in permitting them to do those things, if they do not technically violate the law? A. If they think it is well for the department, I think so. If they think it is going to be a benefit for the department, they are the best judges.

Q. And so long as they make many places for the organization, and do not violate the letter of the law, you would take no action about it? A. If it was beneficial to the city government.

Q. And the fact that it was beneficial to the organization would not be a detriment, in your judgment? A. The city government first, before the organization.

By the Chairman:

Q. Who would determine whether it was beneficial? A. The head of the department.

By Mr. Moss:

Q. There are officials in that department who assess, or who settle the valuations of property for the purposes of taxation. You understand that, do you not? A. Yes, sir.

Q. Are those men organization men, so far as you know? A. So far as I know; yes, sir.

Q. And entirely satisfactory to you, are they? A. I think so, yes, sir.

Q. There is nobody in any of those positions who is not satisfactory to you or who is out of line with your party, is there, so far as you know? A. I believe not, no. They may be all good organization men. That is what the people voted for the last election.

Mr. Moss—Yes; and you understand——

The Witness—That was the issue.

Q. By that you mean that you think the people have endorsed your views; that, so long as the administration keeps within the law, it is right for them to handle the patronage for their party? A. Providing it is going to be beneficial to the city government.

Q. You have always found it beneficial thus far to have members of your own party in these positions, to the exclusion of members of the other, have you not? A. Yes, sir.

Q. And you have found that in business matters like that of Peter F. Meyer & Co., members of the organization can help each other in business, have you not? A. It all depends on what kind of business you refer to.



Mr. Moss—I am talking about such business as Meyer & Co.?

The Witness—You try to make us all out a pack of thieves. That is what you are trying to do—that we are all in one combination together, members of the city government; but you can't do it.

Q. You think that these questions indicate that the persons who do that are thieves? A. That is what you are trying to get at. I say that the people of the city of New York to-day—when they voted for our ticket, voted to put organization and believe in organization and believe the organization should run this city; and when you were put out of the police board, that is why they put you out. That is what I believe.

The Chairman—That gentleman (referring to a man who had clapped his hands) will leave the room. The sergeant-at-arms will see that that man leaves the room.

Q. By that—

The Witness—If you show that different on your examination here, maybe they will put you back. That is what you are trying for.

Mr. Moss—I do not care about that. We are looking at the system and not at individuals. I know it is very tempting for you to foil or think you are foiling the question, by addressing questions to me.

The Witness—I am not trying to foil anything.

Mr. Moss—That is simply play, you know.

The Witness—I am not foiling nothing. I am right here and looking you right square in the face and answering any question in my judgment that is put to me in a gentlemanly and honest light.

Mr. Moss—Wait for the question.

The Witness—If you are true, if you want to make a good examination in this town and get at the true facts, without any bias,

I am ready here to answer all your questions. I will do it with great pleasure.

Q. You understand, then, that the question between the last administration and your administration, between the principals represented by the other party and the principles represented by yours, were on one side a non-partisan government and on the other an organization government, and your ticket won, and therefore you believe that the people believe in that thing? A. Yes, sir, I do.

Mr. Moss—That is what I wanted you to tell us.

The Witness—That is what I believe, yes, sir; and their votes have shown it. They have proved it by their votes.

Q. And you have already said that you saw no harm, when the law was not violated, in members of the organization helping each other in a business way? A. I haven't said that at all. That is your way of putting it.

Q. Did you not say you had written—— A. No, I haven't said that.

Q. Listen. Did you not say you had written many letters in behalf of members of the organization, who were doing commercial business, recommending them? A. I don't believe I have written three letters.

Mr. Moss—You said you had written some letters?

The Witness—I don't know of any letters I have written.

Q. We asked you about coal and other matters, and you said you had written letters and you had a right to write them, to persons recommending various tradesmen, and you said that those letters had always been written in favor of members of your party. Do you remember that? A. Not always. I write a letter for a man, whether he is a member of the party or not, if I know him.

Q. Have you written any letters of recommendation for tradesmen who were not members of your party? A. Yes, sir, I have.

Q. Whom? A. I wrote a letter for a gentleman that don't live in this State at all.

Q. Of course; then he would not be a member of the party in this city. Have you written letters in behalf of tradesmen in this city who were not members of your party? A. No, not as I know of.

Mr. Moss—Of course not.

The Witness—Or even members of the party. I very seldom write any letters.

Q. You testified that you believed that you had a right to participate in the profits of the judicial sales that came down to you through the system of patronage you described. You said that was your right, did you not? A. Yes, sir, I think so.

Q. And therefore I say that, in your judgment, illustrated in your own case, it is perfectly right for men in the organization, so long as they do not steal money, do not violate the law, to assist each other in a business way—to stand by each other? A. I don't look at in the way you do at all. I don't know anybody that is standing by each other in that way, in the way you refer to, at all.

Q. You and Mr. Meyer are standing together? A. No, I am not. We are in a business together. Legitimate business.

Mr. Moss—I am talking about legitimate business. You evidently have something in your mind different from what I am trying to talk about.

The Witness—No; but your mind is running full of all this nonsense.

Q. You imagine that. Now we are talking about legitimate business. Do you not think that it is the duty of the members of the organization, all other things being equal, to stand by each

other, in legitimate business enterprises? A. I don't think any such thing, no.

Q. Do you think they should not? A. I don't believe they should form any combination at all in any enterprises.

Q. They do, do they not? A. No, they don't.

Mr. Moss—Let us see.

The Witness—Where are they?

Mr. Moss—The men that have formed the Maryland Whiskey Company are altogether in one party.

The Witness—Are they Tammany men?

Mr. Moss—Yes.

The Witness—Who are they?

Q. Are they not? A. Not as I know of. I don't know one in it a Tammany man. You are not one.

Mr. Moss—I am not in the Maryland Whiskey Company.

The Witness—I don't know whether you are or not. You may be in things that I don't know of. We may find out when we get you in the position I am.

Mr. Moss—I am very glad I have you in that position. It is evident you realize the seriousness of the occasion.

The Witness—Not very serious, no. Its fun for me. I will stay as long as the circus lasts.

Q. You are not going to Europe to-morrow? A. I am going to wait over until you get through. You can have me every day you want.

Mr. Moss—We shall see that you are served with a subpoena every day, and I am glad we shall not interfere with your trip.

The Witness—No. You have interfered with it pretty good up to now.

Q. Did you not yourself authorize the statement that you would come here voluntarily? A. No, sir.



Mr. Moss—Dr. O'Sullivan stated here before the committee—  
The Witness—He contradicted it.

Mr. Moss—Wait a moment. Dr. O'Sullivan stated here before the committee, on the minutes, that you were going to sail for Europe on the 18th, but prior to that time you would be at the service of the committee. Did you not authorize that statement.

The Witness—If I was subpoenaed here regularly, as everybody else is.

Q. You authorized it, for you were subpoenaed? A. Yes, sir.

Q. You told him that he could say that? A. Certainly.

Q. Then the only thing that he said wrong was that you would come voluntarily? A. Yes, sir.

Mr. O'Sullivan—I did not say that wrong. I would like to be heard on that.

The Witness—I am not running around after committees. I have got something else to do.

Q. You did authorize that statement to be made? A. Yes, sir.

Q. That you would come if you were subpoenaed? A. Yes, sir.

Q. Are not Tammany gentlemen associated together in the United States Bond and Fidelity Company? A. I don't know many in it. I don't know any Tammany men in it.

Q. Do you not? Mr. Freedman? A. I say he is one; but you talk about a lot of men. One or two.

Q. They are certainly associated together in the firm of Peter Meyer, are they not? A. Two, yes, sir.

Q. Then the referees who send the sales to Peter Meyer are linked together in the chain, are they not? A. No, they are not. You can't make a chain. I defy you to do it.

Q. If there is not a chain, how do you get it? How do you get this long string of judicial sales, if there is not a string? A. It has not been shown that we have had a "lot."

Mr. Moss—I think it has.

The Witness—No, it has not. There is lots of Tammany men don't come there at all with sales. Referees, lots of them.

Q. You get an income, too, from the auctioneers who pay rent for their stands in Mr. Meyer's room, do you not? A. Yes, sir.

Q. He controls that room because it belongs to him, does he not? A. Yes, sir. We pay \$27 a day for that room. We have got to have rent from somebody to pay it.

Q. He has a lease of the room? A. Yes, sir.

Q. And the room is made valuable because the judges of your party designate it as the judicial salesroom? A. Yes, sir.

Q. Is there not a connection there? A. Is not that a string? A. Not a string at all, no.

Q. You have already said that it was their duty, as organization men, to throw the patronage, as far as they could, in favor of members of the organization. Do you remember that A. That is what I would do.

Q. Then I say that your party obligations—— A. (Interrupting) Everybody don't think as I do.

Q. Then you say that you believe that the members of your organization, in any legitimate and lawful way, should assist each other, do you not? A. That is right.

Q. And you believe that that is what the people meant when they elected Tammany Hall? A. Yes, sir.

Q. And that is what you mean to give them, is it not? A. Yes, sir.

Q. And that is what you are giving them? A. We are giving them pure organization government.

Q. And that is what you will give them as long as you stay in the business? A. Yes, sir.

Q. And you have already said you never would resign the leadership?

The Witness—Have I?

Q. Have you not? You were so quoted? A. I may have said I would never resign from the organization. I don't know about the leadership.

Q. Have you not said that you would never give up the leadership, or words to that effect? A. No, never said it.

Q. There is nobody disputing it with you, is there? A. I said I would remain in Tammany Hall as long as I live.

Q. There is nobody disputing it with you, is there? A. There may, sometimes.

Q. There is not now? A. I can't tell.

Q. You do not know what plot may be forming behind you? A. I can't tell you, no. You may be in some plot.

Q. There are inducements offered to young lawyers to join Tammany Hall, are there not?

The Witness—What sort of inducements?

Mr. Moss—References.

A. Not that I know of.

Q. Do you not know of any young lawyers that have joined your organization, because, in that way, they can get references?

A. I don't know what they may be thinking about. There has been no inducements offered that I know of.

Q. There are lists of referees prepared, are there not? A. No, never.

Q. Are you sure about that? A. Sure. No lists of referees.

Q. If a judge has said that the organization was very strict about the appointment of organization men as referees, is it without authority, so far as you are concerned? A. There is no list of referees sent to judges at all.

Q. There are suggestions of referees, however, are there not? A. Not as I know of.

Q. There may be? A. I never interfere or go near the judges.

Q. You never interfere, but does not the organization make out lists? A. No, not at all.

Q. Never has done so? A. Never had anything of the kind. They may have done it before my time, but they haven't done it in my time.

Q. I asked you if you did not receive the contributions of employes of the city government for election purposes and I think you said no. Do you not receive moneys, in the finance committee, from the district leaders? A. Do I? No.

Q. In the committee? Does not the committee? A. No.

Q. What is that finance committee for? What does it do? You have not shown us that they perform any official duties? A. It does not hardly any duty at all. It is a paper organization. They organize and call it a finance committee.

Q. Do you consent to serve on mere paper organizations? A. Yes, sir.

Q. And the only purpose you have is to hold the paper together? Is that it? A. Well, you could call it that, if you wish.

Q. We were talking about this tax department when your humor turned us off into a pleasant side excursion. I want to ask you this. In determining the valuation of property for the purpose of imposing a tax thereon, suppose that on one side is the affidavit of a Republican stating a value, and on the other side is the affidavit of a Tammany man, stating a different value, and all things are equal, equally balanced, but on one side is the Tammany affidavit and on the other side is the Republican affidavit, and a decision has got to be made; which affidavit should the assessor go by? A. I couldn't give any advice on that score.

Q. Is there not any organization policy about that? A. Not a bit.

Q. So far as your organization is concerned, so long as a public servant is honest, is it not his duty to his party to give that party the preference wherever he can do so lawfully? A. It all depends on the commissioner himself, how he feels about that.

Q. But does not the organization expect him—— A (Interrupting) No.

Q. (Continuing) When all things are equal, to give the preference to the organization man? A. No, those details are not gone into at all that you are talking of.

Q. But that is a part of the whole system of organization, is it not? A. No, that has got nothing to do with the organization at all.

Q. You have already said, and Mr. Carroll has said, in the appointment of referees, for instance, that if there is one man who is a Republican, and another man who is a Democrat, and all other



things are equal, the preference should be given to the Democrat?

A. That is right.

Q. Exactly. Is it not so in all matters of the organization?

A. I don't think so.

Q. Supposing that a police commissioner is trying a policeman, and on one side of the case there are Tammany witnesses and on the other side Republican witnesses, and the case is equally balanced—one side of the testimony is just as strong as the other—and he must give a decision. Should he not, as a good organization man, consider the organization in that decision? A. Believe the Democrats first.

Q. Believe the Democrats first, yes. That is what they are expected to do, is it not? A. Believe them first; give them the preference.

Q. So, in the matter of making an assessment for taxes. If the evidence on one side is Republican and the evidence on the other side is Democratic, and it is equally strong, and the commissioner must make a decision, should he not give the preference to the Democrats? A. No.

Q. Why do you make a difference in your mind between the matter of taxation and the matter of trying a policeman? A. It is a different thing altogether.

Q. Why are they different? A. It is different.

Q. In the one case a policeman may lose his livelihood; he may be dismissed from the force; his family may be starving for lack of his support; in the other case a man who is already rich may have to pay a few dollars a year more for taxes. Which is the more important, do you think, the tax matter or the matter of the policeman? A. It is only the way you put it. You can construe it any way you like.

Mr. Moss—I do not care to construe it either way I like.

The Witness—The taxes has got nothing to do with it at all. The taxes has got nothing to do with the politics at all, so far as the adjusting of the tax or levying them is concerned.

Q. Are you sure of that? A. Yes, sir.

Q. How much are you assessed this year on the house No. 5 East Seventy-fourth street? A. I don't know the exact amount. I forget it, this year.

Q. Forty-four thousand dollars, is it not? A. I don't know.

Q. Will you deny that? A. I don't know.

Q. How much were you assessed last year? A. I don't remember now.

Q. Forty-five thousand dollars? A. I think it is more this year.

Q. Do you think it is more this year? A. I am sure of it.

Q. It is not \$1,000 less? A. Oh, no.

Q. Are you sure? A. Very sure, so far as I can recollect.

Q. You think you are increased, then? A. I think so.

Q. Are you increased in the same proportion as the Astor Hotel, in Thirty-fourth street and Fifth avenue? A. I think so; in proportion.

Q. You think your proportion of increase is just as much as that? A. Just as much.

Q. It ought to be, ought it not? A. Just as much; yes, sir.

Q. You do not know of any reason why you should not be dealt with on the same ratio as the Astor house? A. One is a hotel and the other a private house. The business—you can't tell. It may make a difference. You can't class those two things together—a private house and a hotel.

Q. Do you think the increase of your assessment should be as much as the increase in anybody else's private house? A. Yes, sir.

Q. And you realize the fact that the assessors are members of your party now, do you? A. Yes, sir.

Q. And if the assessment in your case is smaller than in the case of others, we would be correct in supposing that it was on account of the friendship of the assessors for you, would we not? A. You can suppose that, yes, sir.

Q. We have a right to suppose that? A. But I don't believe you will find it is so.

Q. Did you pay any personal tax for this year—this last year? A. No.

Q. Did you pay any personal tax for the year before? A. No, sir.

Q. Did you receive a personal tax notice for this year? A. Not yet.

Q. Did you receive a personal tax notice for last year? A. I think I did.

Q. How much did the notice call for last year? A. Fifty thousand dollars.

Q. Why did you not pay on it? A. Because my real estate taxes—the mortgages on my real estate amounted to more than the taxes.

Q. What about the blocks of stock that you have in the different corporations? A. The stocks ain't taxable.

Q. Are not some stocks taxable? A. Some might be, and others not. But where are the blocks that you are talking about.

Mr. Moss—That is what I want to know. You do not intend to enlighten us on that?

The Witness—I told you.

Q. You have admitted you held interests; but how much you have not said. We are warranted in supposing you have blocks of stock equal to your station and power in life. A. I haven't testified that I owned any stock at all.

Q. Did you not make an affidavit last year with reference to your personal tax? A. Yes, sir.

Q. Did you not swear that the only personal estate you had were your horses, which were in England? A. Yes, sir—no, I don't think I made that statement.

Q. Did you not so state to the tax commissioner? A. I don't think I mentioned horses at all. I simply swore off my taxes on the ground that my mortgages were more than I swore off, which I have shown.

Q. Did you not at that time have the interest that you now have in the Auto-Truck Company? A. No; the Auto-Truck Company wasn't thought of at that time—by me.

Q. But at that time you had the money with which to purchase your interest in the Auto-Truck Company, did you not? A. You are trying to get into my personal affairs again. You will never find them out.

Q. We are trying to get into your personal affairs touching the assessment of your personal estate—— A. (Interrupting) That has been sworn to.

Q. (Continuing) By your representatives in the tax office, who are there in line with you, and whom you put there? A. That has been sworn off, and if it is wrong you go up there and correct it.

Mr. Moss—You are not the only man whose personal tax has been a matter of public attention.

The Witness—The Auto-Truck Company is giving you a lot of trouble and it is not organized yet. That is, there is nothing——

Q. Have you any stock in it? A. We haven't commenced to do business.

Q. Have you any stock in it? A. We haven't commenced to do business.

Q. Have you any stock in it? A. That is my business.

Mr. Moss—You told us a little of your business.

The Witness—Yes, that is my business.

Mr. Moss—You said you were not doing business yet.

The Witness—That is my private affair. It has nothing to do with the city government at all.

Q. Did you have at that time your interest in the United States Bond and Fidelity Company? A. That is my business, too.

Q. Did you have it at the time you swore off the taxes? A. That is my business, too.

Q. You do not propose to let us hear how you figured out—— A. (Interrupting) No.

Q. (Continuing) Your swearing off of those taxes, do you? A. I will show you when it is necessary. If it is necessary for me



to show you, I will. I showed the tax commissioners and satisfied them to that effect.

Q. You satisfied them; but you have already said you were satisfied with the tax commissioners? A. Yes, sir.

Mr. Moss—And I do not blame you for being satisfied with them.

The Witness—My mortgages gave me that right—to swear them off.

Q. You are chargeable at the rate of \$50,000. How much mortgage did you say you have? A. I have \$50,000 on one house—the house I live in.

Q. Fifty thousand dollars on that house? A. Yes, sir.

Q. Is it there yet? A. Yes, sir.

Q. And that wiped out the \$50,000? A. Taxes.

Q. But it did not, unless you had other property?

The Witness—Why?

Q. How much property did you say you have? A. I have got a house which—\$10,000.

Q. That is real estate. I am talking about personal estate? A. Ten thousand dollars on a house up in Harlem.

Q. That is another mortgage? A. Yes, sir.

Q. But what personal estate did you have when you went to make your affidavit in the tax office? A. Nothing special that I know of.

Q. Nothing? A. No, nothing special, except my business.

Q. That is what I meant when I asked you the question, perhaps by an objectionable form, whether you were not broke when you came back from England? A. No, sir; I was not.

Q. You were not? A. No, sir; brought back some English money.

Q. But that English money was balanced by what you owed on the mortgage, is that it? A. No, sir.

Q. Did you have \$50,000 worth of personal property? A. I don't know as I did.

Q. You do not think you had as much as that? A. I don't know as I did. I might have had \$50,000, yes, sir. I may have had it.

Q. Did you have more than \$50,000? A. I don't recollect. I don't propose to go into my personal business, Mr. Moss.

Q. I only want to ask you so far as to show this: whether the mortgages that you swore on exactly balanced your personal estate, or whether your personal estate was smaller than the amount of mortgages. That is all I care to know? A. They are sworn to—you find out anything different. I swore to it and that is all about it. I settled it.

Q. Swear it here? A. That is what I am doing now. I don't propose to give you my personal business.

Q. Do you decline to answer that question? A. I decline to go into my personal business.

Q. Do you decline to answer the question? What is the use of going into all that talk? A. Yes, sir.

Q. You have already told us about what you think the organization should do in the case of the trial of policemen. Suppose a Republican police officer were being tried, and he should deny the charge, the charge being made by a Tammany witness, and the testimony is equally strong. The commissioner must decide the case. Should he give the preference for truthfulness to the Tammany man? A. It all depends on the character of the witnesses.

Q. I say they are equally strong. Those cases often arise. And the case must be decided. Now, should he give the preference to the Tammany witness? A. No, I don't think he ought to have any preference at all in that case, in his decision of that kind. I don't think politics ought to be brought into that at all.

Q. When the case is equally strong on either side, and must be decided, is there not a natural preference, a natural leaning to your friends and associates? A. Not in a case like that, I don't think. We don't go quite as far as that.

Q. Supposing a judge having a referee to appoint, should have reached on his list a Tammany lawyer, but that a Republican

lawyer of longer experience and larger practice should also be in his mind; should he appoint the Tammany man? A. Not if the other one had the most experience.

Q. You think, then, that he should appoint the more experienced man? A. Yes.

Q. Is that the way it is done? A. Yes. It is not done that way, because we look for one with just as much experience as the Republican, all things being equal.

Q. You always have on the Tammany side some Democrat who is the equal of any Republican who is named? A. He is just as good; just as qualified.

Q. So that if a high grade Republican is named, then the Democratic judge must pick out a Democrat equally high? A. Just as high as him. We expect that.

Q. But the Democrat gets there? A. He should always get there, yes, sir.

Q. Supposing a judge is trying a case, and at the end of the case, the evidence is evenly balanced, and he must decide the case, and the witnesses on one side are all Republicans, and the witnesses on the other side are all Tammany men. Now, they are equally respectable, they are equally credible, they are equally strong; but it so happens that on one side is one organization, and on the other side is the other organization. Should he still remember the fact that he is a Tammany man? I refer to the judge? A. No, sir. That should not be brought in at all.

Mr. Hoffman—Allow me to ask a question.

Mr. Moss—Excuse me. I ask you to please——

Mr. Hoffman—In that regard——

The Witness—You are putting a hard case to me, that never occurs.

By Mr. Hoffman:

Q. In reference to the matter that Mr. Moss is just questioning you on, do you know of any instance where any such thing has ever been brought up—about Democrats and Republicans, re-

garding the appointment of a referee, or regarding witnesses?

A. It never comes that way.

By Mr. Moss:

Q. Have you not just sworn to the contrary? A. No.

Mr. Moss—Assemblyman Hoffman has asked you whether it has ever happened that the question of a man's politics has been mentioned in reference——

The Witness (interrupting). Courts?

Mr. Moss (continuing)—In reference, as to referees, and you have already sworn, as I understood you, that the Tammany judge must appoint a Tammany referee.

The Witness—I don't say he must do it. I never said that.

Q. But he always does? A. Not always. It is not always the case, by any means. They often appoint Republicans.

Q. Do you want to take back the testimony you gave a few moments ago about referees? A. If you say that, what you repeat now, I do.

Q. Supposing that in a case of a matter before a judge, the case is doubtful; that one side is just as strong as the other; it is not a matter of life and death, but a mere matter of property, or perhaps of the designation of a place; one side of the case is represented by a member of your organization, and the other side is represented by a man outside of your organization. In the making of that decision, the organization judge should remember his party? A. I don't think politics ought to be brought into such cases.

Q. Why were politics brought into the removal or the Real Estate Exchange? A. It was not. It was a more fit place than the other.

Q. You think it is more fit? A. I think so. It is the old place they always had, 75 years ago, and it has been simply brought back. The other was only a temporary place, built by a lot of people for the purpose of getting it over there.

Q. Do you think where there is a candidate for a position in the gift of the court, and one is a man of long experience, and



the other is an organization man, that the organization man should have the preference? A. I will answer that.

Mr. O'Sullivan—One moment. I would like to object to this series of hypothetical questions. This gentleman is not here as an expert. He is here as a citizen. He comes here in the capacity of, a private citizen, and a whole lot of questions are fired at him.

Mr. Moss—I challenge the right of Dr. O'Sullivan to speak for Mr. Croker here.

Mr. O'Sullivan—You cannot challenge my right to speak.

Mr. Moss—For Mr. Croker? He represents city departments here, and the statements he has made in open court have been repudiated.

The Witnesses—You are trying to make me represent a city department.

Mr. Moss—They have been repudiated by the gentleman——

Mr. O'Sullivan—You refused to let me speak a moment ago.

The Chairman—I do not understand that you appear for Mr. Croker.

Mr. O'Sullivan—That is the trouble. I have got to keep still when I see the time of the committee is taken up with hypothetical questions.

The Chairman—The committee will be the judge of that and not you. If this committee sees fit to call Mr. Moss to account for the line of investigation, they will do so. Mr. Croker is here as representing an organization, and I think it is entirely fitting we should have his views on these subjects.

Mr. O'Sullivan—But they are hypothetical questions. I would like to direct the chairman's attention to that fact. They are relating to matters that could not possibly come up. It is an insolence in any man to attempt to disgrace our bench, by asking a gentleman here how he would deport himself in a case that might come up before him.

The Chairman—These questions are based on evidence that has been already adduced for the committee.

Q. We will restate the question. Suppose there is a candidate for appointment to be made by a judge. There are two candidates for such an appointment, one being a man of long experience, and the other being an organization man. Which man should have the preference—the man of long experience and ability, or the organization man of less experience and ability?

A. Well, that always depends on the judge himself, how he feels about those things.

Q. You think the judge should be left to his own judgment there?

A. Uniformly. Yes, sir, I do.

Q. When Judge Daly refused to sign the designation of your salesroom on Broadway, and refused to appoint Mr. Daly to a clerkship, why was that a reason for turning him down?

A. That was not the reason.

Q. What was the reason?

A. That was not the reason.

Q. What was the reason?

A. Because we put in a better man.

Q. Was not that assigned as the reason?

A. No; not particularly.

Q. You heard Judge Daly's statement that that was the reason assigned to him by your representatives?

A. That is what he says. I don't know that it is so.

Q. Do you deny that?

A. Yes, sir; I deny that.

Q. In what sense was the man that you choose for his place a better man?

A. A far better lawyer, in my opinion.

Q. Who do you mean?

A. Judge Leventritt.

Q. A far better lawyer?

A. A better lawyer, and more fitted for the place.

Q. Had he ever been on the bench?

A. Never before.

Q. Was he in practice when Judge Daly received your nomination, or the nomination before—Judge Leventritt?

A. I think he was. I don't know. I think he was.

Q. Was he a better lawyer then than Judge Daly?

A. I believe he was a better lawyer any time than Judge Daly, and a better judge.

Q. But he was not selected before, was he?

The Witness—At that time?

Mr. Moss—Yes.

A. Well, I haven't much to say about that time; very little to say about it.

Q. That is the reason why you selected Judge Leventritt instead of Judge Daly—because he was a better man? A. Better man; yes, sir; and would attend to his duties better, in our judgment.

Q. What knowledge did you have of Judge Leventritt's powers, by which you should say he was better than Judge Daly? A. No more than a general lawyer around New York, and in the various courts.

Q. And Judge Daly had sat on the bench twenty-eight years? A. Yes, sir; and he is no better a lawyer now, or as good.

Q. So you decided upon the merits of those two men? A. That is what we thought; yes, sir.

Q. You picked out the best man? A. Yes, sir.

Q. You nominated him? A. Yes, sir; and elected him.

Q. How did you nominate him? A. By the convention.

Q. How did you control the convention? A. The leaders of the districts controlled their own.

Q. You controlled the leaders? A. No; I had nothing to say about it.

Q. You said you selected him? A. Selected in open convention.

Q. Was it? Did they have an open and free vote on it? A. Yes, sir.

Q. Were there any other names? A. No.

Q. How was it done? A. It was a free vote.

Q. Of course; and were there no other nominees in that convention? A. No; not that I know of.

Q. Was not Judge Daly's name presented by any one? A. I don't believe it was. I believe it was in the conference committee, and it was voted down.

Q. Before the convention? A. Yes, sir.

Q. Was there no other candidate, out of the six or seven thousand lawyers in New York, presented besides Judge Leventritt?

A. No.

Q. That was because they thought he was the best man? A. That is what we thought.

Q. Where was that selection made? A. In Tammany Hall.

Q. Who was present when it was made? A. The convention made it.

Q. But he was selected in conference beforehand, you told us? A. Yes, sir.

Q. Who was present at that conference? A. All of the leaders of the various districts.

Q. Were you present? A. No; I think not.

Mr. Moss—You told me that you selected him.

The Witness—I didn't tell you any such thing.

Q. You did not select him, then, did you? A. No.

Q. You did not care anything about him? A. The party selected him.

Q. You did not care anything about it, did you? A. I was glad to see him selected; yes, sir.

Q. You had no judgment at all about whether Judge Daly would be selected, or Judge Leventritt, did you? A. Well, I imagined they would not select Judge Daly.

Q. What made you imagine that? A. Because your party had him in view.

Q. Because—— A. (Interrupting) Your party.

Q. Because he was in view with the Republicans? A. Yes, sir.

Q. But he had already been refused a renomination.

The Witness—What? Tammany?

Q. Had he not? A. I don't know. He was negotiating with both.

Q. Had he not been refused a renomination by your party before his name was mentioned in convention? A. Not as I know of.

Mr. Moss—You know all about it, if you will think.

The Witness—No; I don't think so. The convention hadn't met, up to that time.



Q. You say that Judge Daly was voted down, and Judge Leven-tritt was voted up in the conference? Can you remember who were present at that conference? A. I think all the leaders of the party. Thirty-six.

Q. All the leaders of the party? Among those leaders was Percy Nagel, of the Thirty-fourth district, was he not? A. I don't know whether he was there or not.

Q. He is one of the leaders? A. Yes, sir.

Q. And was entitled to a vote? A. Yes, sir.

Q. Do you know whether he runs a poolroom? A. No; I do not.

Q. Have you any other members of your party who run pool-rooms and gambling-houses? A. No; I don't know of any. I don't know of one.

Q. Was Mr. Sullivan a member of that conference? A. I pre-sume he was.

Q. Do you know that he was interested in illegal operations in this city? A. He is a Senator.

Q. A Senator representing you in Albany? A. Representing the organization.

Q. Of which you are the head. Do you not know that he is interested in illegal operations in this city? A. No.

Q. Do you not know that he is interested in compelling the saloon keepers to buy Maryland whisky? A. I do not.

Q. Do you not know that the Maryland whiskey in which he is operating has been forced into the saloons and disreputable houses? A. That I don't know.

Q. Do you not know that he is the owner of the Dewey Theater, which violates the building laws and fire laws every day of the week?

The Witness—Does he?

Mr. Moss—Yes.

A. I don't know that.

Q. You do not? A. No, I never knew that before.

Q. You knew nothing about the bad character of Mr. Timothy D. Sullivan, did you? A. No, I did not.

Q. Were there any other men among that lot of leaders whose character was as good as Mr. Sullivan's? A. I think they are all of good character.

Q. All of good character, every one of them? A. Yes, sir; I think so.

Q. Was Max Hockstim one of them? A. I never heard of such a man.

Q. Never heard of him? I guess he is a sub-lieutenant or sub-boss or sub-leader. And such men as Mr. Sullivan were passing upon the qualifications of candidates for the Supreme Court, were they? A. He helped; yes, sir.

Q. I recall your very words, as suggested by Mr. Clarke, as having been widely published at the time. Did you not, months before the convention, say that Judge Daly would not be renominated, because he had not given proper consideration to the organization? A. No.

Q. You never said that? A. No.

Q. Or anything like it? A. No.

Q. In that conference were really the merits and demerits of these two men mentioned and discussed, their professional abilities, and all that?

The Witness—Which two men?

Mr. Moss—Daly and Leventritt.

A. I don't recollect. I don't think I was at the conference at the time.

Q. You look upon the gentlemen that I have mentioned as loyal organization men, do you not?

The Witness—Who?

Mr. Moss—Mr. Sullivan and Mr. Nagel. They are all that occur to my mind at the present time.

A. Oh, yes.

Q. Loyal organization men? A. Yes, sir.

Q. Men you are perfectly willing to associate with? A. Yes, sir.

Q. Men that you are perfectly willing to associate with you in the government of this great city? A. Yes, sir. One of them is a lawmaker for it, elected by his people.

Q. And he is generally accredited with having a large influence over his associates in the Senate, is he not? A. That I don't know.

Q. You never heard of that? A. No.

Q. He is a man who entertains his associates in the Senate liberally, when he cares to, is he not? A. I don't know. I hope he does.

Q. He is a man who speaks with authority at times, is he not? A. From his people; I suppose so.

Q. For yourself and for the organization? A. No more than any one else.

Q. And large sums of money have been put in his hands, have they not? A. Not as I know of.

Q. Have you never heard of it? A. No.

Q. Never heard of his disbursing money in Albany? A. No.

Q. You said the other day that you believed most of the corruption was in Albany. Did you ever hear his name mentioned in connection with that corruption there? A. No.

Q. Have you never heard of members of your own party in the Senate speaking of corruption as represented in his person? A. Never.

Q. And that rumor has never reached you? A. Never reached me.

Q. And if he has been a party to such arrangements as I have named in the Senate, is it entirely without your knowledge and without your sanction? A. I don't sanction any corruption.

Q. Let us resume our original line. Suppose that two bids are presented by equally responsible firms for the doing of city work, and they are equal in amount; but one comes from a Republican and the other from a Tammany man, which should have the preference, when a member of your organization has the giving out of the work? A. The Tammany man.

Q. The Tammany man, of course; but if they are equal? A. If they are equally the same; all things equal.

Q. Then the Tammany man should have the job? A. Yes, sir.

Q. Supposing there be two bids. The Tammany bid is one figure and the other man's bid is slightly lower. Do you think the head of the department should examine the Republicans bid carefully to see whether there is any informality or illegality in it, by which it can be thrown out? A. I don't think they do that; no.

Q. Do you not think they do that? A. No.

Q. You never heard of such a thing being done? A. No; never.

Q. Have you ever heard of the lowest bid being rejected because of an informality? A. Not under our government.

Q. That case has never come to your attention, has it? A. Not as I know of.

Q. If it has been done, would it meet with your disapproval? A. It all depends. It all depends on how they find it. If there is one very unreliable firm, that is not in good standing, they have the right, I suppose. I don't know. They must have some right in that respect.

By Mr. Hoffman:

Q. Are there any public biddings which require the bidder to put in his politics, whether he be Democratic or Republican? A. Not at all.

By Mr. Moss:

Q. It is not necessary for him to do that, is it? A. No.

Q. The Tammany men know each other, do they not, as a rule? A. Not always; no.

Q. A man who bids and is a Tammany man, does not have to write his politics in the bid, does he? A. No.

Q. It is not necessary? A. It is not necessary.

Q. Is it not a proper thing for a commissioner to introduce a friend of his to a man that has a public contract, and recommend him to do work as a sub-contractor or to furnish materials? A. Never heard of it. It is wrong for him to do it.

Q. Is it wrong? A. Yes, sir.



Q. Supposing one of your commissioners in charge of a department in which contract work is being done——

The Witness—Under himself?

Q. Under his control. (Question continued) has taken a gentleman to the contractor and recommended him to furnish materials or to do work. He has the right to do that? A. I don't think he has.

Q. Why not? A. Well, it is not right.

Q. If the man will do the work cheap, if the man will do the work right, why should not the Tammany commissioner have the right to take his Tammany material man to the gentlemen who is doing the work and recommend? A. I don't think that is right.

Q. You don't think that is right? A. No.

Q. But so long as the man does not steal the public funds and does not violate the law, do you not think he has the right to favor his political associates in every proper way? A. All things being equal, he ought to stick to his party in patronage. It all depends on the character of the parties, too.

Q. You have just had a Jeffersonian dinner? A. Yes, sir.

Q. In which the Jeffersonian principles have been discussed at great length. Those were principles, as I understand them, of statemanship, of wide policy, of morals. Do you think that the Democracy should spend its best efforts in discussing the matter of patronage and providing for the worldly good of its members? A. I believe the members of an organization should derive whatever benefit there is legally and honestly, for its victory. I should think, when a party wins, the party is entitled to whatever patronage there is going.

Q. Do you not think a great party should prefer to stand upon its moral and political principles, rather than upon the spoils? A. Both, I think.

Q. Do you get any foundation for that, any authority for that, in the principles and in the practices of Jefferson? A. We try to do both, yes.

Q. You think that you are closely following the lead and the precepts of Jefferson in the way you are administering the affairs of the Tammany organization in New York city? A. I think so.

Q. Did Jefferson ever tell the members of the Senate not to come down to see him, but to remain in the capitol, and have them obey him? A. He would do it, probably, if he was in the same position as I am here.

Q. You think the present situation might make him do differently from what he used to do? A. I think so. It is pretty hard to judge 100 years, what might be done then, and what might be done now.

Q. That is true, and, therefore, you have modified the Jefferson platform to meet the present occasion? A. You have gone back a hundred years.

Mr. Moss—You did the other night.

The Witness—I know. We were celebrating. You are dreaming now.

Q. I want to ask you if the same orders and advice went to the assemblyman that went to the senators? Were the assemblymen requested to remain in Albany? A. I don't know. I don't remember sending any word to assemblymen. I sent word up to Mr. Mackey, that is all, who was in Buffalo, that we didn't need him; that we would rather he would remain there; and he sent us a letter down that he would remain at his post.

Q. Were there members of Assembly at the dinner? A. I don't believe there was. I can't remember. There may have been some. I don't remember.

Q. Was it not your intention to include the assemblymen along with the senators, and have them all stay up there? A. I think they all should have stopped there.

Q. Was it not your intention to include the assemblymen along with the senators and have them all stay up there? A. I never thought of them, at all. I should imagine it was for all.

Q. Was it not your interest in keeping those Democratic senators in Albany, for fear that something might be sprung in the Senate, if they were not there? A. To watch you people.

Q. And you thought it was more important for them to be up there to block legislation—— A. No.

Q. (Continuing) That might be proposed by the Republicans, than for them to be down here, eating their great dinner in honor of Jefferson. That was it? A. To block this legislation that you are engaged in.

Q. To block the police bill, eh? A. To block all those sort of bills.

Q. That? A. That.

Q. And the Astoria bill, of course? A. Yes, sir, and all your gas bills.

Q. And the civil service bill? A. Yes.

Q. And the gas bills? A. Yes, sir. All those monopolies you are into.

Q. You want a municipal gas bill, built for Tammany Hall? A. Yes, sir; built for the organization.

Q. With contracts carried out by the members of the organization? A. Yes, sir.

Q. Tammany right clean through? A. Tammany right clean through.

Q. You want the whole business, if you can get it? A. Yes, sir; everything clean; the same as you got under Roosevelt, exactly, when you were commissioner.

Q. So long as your subordinate does not steal and does not violate the law, he has the right to advance his own business interests, and the interests of the members of his family, has he not? A. I don't know. He has no right to advance any wrong interests.

Mr. Moss—No, not the wrong interests.

The Witness—But to perform his public duties.

Q. But the financial interests? A. No.

Q. He has the right, for instance, as a public officer, to block contracts for building schools while those contracts are in the hands of persons appointed by the former administration, and then let the schools go on when he can control it; he has that

right, has he not? A. I don't believe politics cut much figure in those things. I never heard of it.

Q. You never heard of public schools and public works being stopped by Tammany Hall? A. No, I have not.

Q. Do you remember the debt limit cry? Do you remember the cry that your people got up about the city of New York having been run beyond its debt limit? A. Yes, sir.

Q. It was alleged that it had been run fifty million of dollars ahead? A. There was same talk about it, and they believed so at the time, until they discovered different.

Q. And they stopped the public works, school buildings and everything of that kind, did they not? A. I don't believe they did, no. Did they stop them?

Q. Do you not know that the school buildings were stopped, that thousands of working men were thrown out of employment, because of this debt limit bug-a-boo? A. I believe there was some talk of it. I was away at the time.

Q. Then you did not have your hand on the helm at that time? A. I don't recollect about it. I know when I came back everything was going all right.

Q. Who managed that? A. I don't know.

Q. Who was it that found out that the city had still thirty millions of dollars of credit to the good? A. I don't know.

Q. Who found that out? A. I suppose the mayor and controller and corporation counsel.

Q. That was found out in time to let good Tammany men go on with those buildings, was it not? A. They could do it before, if they wanted to. I don't believe that cut any figure at all.

Q. One thing further about the debt limit. Was not the debt limit cry used to shut off the Rapid Transit Commissioners in their plans? A. I don't think so.

Q. Do you not think it was done for that purpose? A. No, I don't think so.

Q. Was not that debt limit cry raised by your people for the purpose of interfering with the Rapid Transit plans, and so as



to assist your friends, the Metropolitan Street Railway? A. Not at all.

Q. It had that effect, had it not? A. I don't think so.

Q. Do you not think it had that effect? A. I don't think so. You cannot go in to-morrow and build it.

Q. Notwithstanding that cry, you are contemplating the building of great bridges, and the building of a municipal gas plant, are you not? A. Yes, sir, but it would not cost so much money as the rapid transit. I understand now that you can spend ten million of dollars a year and not go beyond the limit.

Q. How much would it cost to put up the gas plant? A. Ten millions of dollars, two years.

Q. How much would it cost to put up those bridges? A. It would take seven or eight or nine years to put up the bridges. It would not cost over two millions of dollars a year to build the bridges.

Q. There are public improvements going on constantly, school buildings and everything of that kind, are there not? A. I believe at the time the cry about the debt limit was, they were very sincere and believed it was so, until they found out different.

Q. Have not your organization people adopted the plan for raising the apparrant resources of the city so as to permit your organization people to build these great public works? A. I don't think so.

Q. By a great increase in the valuation of the city? That makes the city appear richer, does it not? A. Yes, sir.

Q. And it furnishes a margin for the doing of immense public works, does it not? A. Yes, sir, I should imagine so.

Q. Those valuation are no greater now than they were a year ago, practically, are they? Really so? A. Now, look here. You had better examine the commissioners.

Q. I am examining you. You have lots of knowledge on those subjects? A. I can't give you any more knowledge on that. I am not familiar with all those subjects. I am not familiar with all those things. If I was in an office, and a commissioner, where I could familiarize myself with it, I could talk to you very

intelligently; but I can't, on all those subjects. You had better summons some commissioners here.

By the Chairman:

Q. You are in the real estate business? A. Yes, sir.

The Chairman—I presume Mr. Moss is addressing the questions now——

The Witness—He is in all the departments now.

The Chairman—He is asking about the increase of valuations in the city.

The Witness—I know; but I am not an expert on all those things. I can be in the real estate business and not be an expert on all those things. I could not talk on all those things, because I don't fully understand them.

By Mr. Moss:

Q. Do you think that all persons who receive favors from the Tammany organization should contribute to its campaign expenses? A. That all depends on how they feel towards them. It is left to their individual judgment, themselves.

Q. Their feeling, opinion and the expression of it, would influence the giving of favors? A. Some men might feel like contributing one dollar, and some might feel like contributing ten. You can't tell about that. It all depends on the man himself.

Q. But you do not consider the man loyal to the party who does not contribute his share of the party expenses, do you? A. Sometimes they are very loyal and don't do so.

Q. When they are able to? A. When they are able to. We expect, when they are able, that they would do it for the sake of their party.

Q. Do you think that men who receive contracts from Tammany Hall, should, as a matter of right, contribute to the expenses of the organization? A. That all depends on how they feel.

Q. But are they not expected to, as a matter of right and justice? A. No.

Q. The man who gets a profitable contract, as a matter of right and justice, should contribute to the expenses, should he not?

A. There is a competition for all those things.

Q. But the competition is restricted to the party, is it not? A. No.

Q. The preferences are given, as you have already said. A. You can't stop any man from bidding on a contract, no matter who he may be, inside the State and outside of it.

Q. But you said the preferences were given in favor of organization men every time, all things being equal? A. Not in all things. In the way of patronage. Contracts and things of that kind are not.

Q. At the time the Third Avenue railroad received a permit to open the streets and install electricity, was there not a large payment made to somebody in the interest of Tammany Hall? A. Not to my knowledge.

Q. To yourself, for instance? A. No, sir.

Q. To Mr. Freedman? A. Not as I know of.

Q. Or to any commissioner? A. Not to my knowledge.

Q. Or to any leader? A. Not to my knowledge.

Q. Or at the time the Third Avenue Railroad Company opened the Kingsbridge trenches on the Kingsbridge system? A. I never heard of it.

Q. Never heard of that, did you? A. Never heard of it.

Q. Are you sure of that? A. Never heard of any money being paid on those things.

Q. No rumor has reached you about it? A. Never; no.

Q. Have you not, during the last year, received large sums of money from individuals, which were not your profits or earnings on any business? A. No, sir.

Q. No? A. No, sir.

Q. You are in favor of the city owning a gas plant. Are you in favor of the city owning an asphalt plant? A. Yes, sir; I think it would be a good thing. I think it would be a really good thing. I am in favor of it.

Q. Do you know why it is that more money is being paid for asphalt in New York city than in any other large city? A. I don't know.

Q. Do you know that that is the case? A. I don't know. It should not be so.

Q. Do you realize the importance of the building trade in New York? A. Yes, sir.

Q. And the importance of any commission or body which has the control, in any way, of the building trade? You realize that, do you not? A. Yes, sir.

Q. And, as the leader of your organization, you have taken some interest in it, have you not? A. Very little. In what way?

Mr. Moss—Well, to see that boards and bodies and commissions were properly constituted, fairly and properly constituted. You have been interested in that, have you not?

The Witness—No; not much. That is a matter I have got nothing to do with at all.

Q. But you are interested in all matters of patronage, are you not? A. No; I am not.

Q. Everything has to be done in line with your desires? A. I have no desire about it at all.

Q. Nothing is done against your desires? A. I don't handle any patronage at all.

Q. Do you know who the building codes commission are? A. I don't think I do. I know one, I think, on it. I think I know two on it.

Q. Who do you know? A. I think I know Mr. Fryer.

Q. Who else? A. Mr. O'Reilly, I think, I know.

Q. And Mr. Brady? A. Yes, sir. He is the building commissioner.

Q. He is the building commissioner, and a member of the codes commission, as well? A. Yes, sir; I think so.

Q. Does this building codes commission meet with your entire approval? A. I don't know anything about that.



Q. Do you know anything against them? A. I don't know anything against them or about them.

Q. Were you not consulted in the naming of the commission? A. No.

Q. Was that done by the mayor without any consultation with you? A. It was.

Q. Is he entirely responsible for the commission and the character of it? A. I think he is.

Q. Have you ever had your attention called to that commission and its way of doing business? A. No.

Q. That commission has never done anything antagonistic to you or your family or your interests, has it? A. Not as I know of.

Q. Nor has Mr. Brady? A. No; not as I know of.

Q. Have you not had direct reason to consider the building superintendent and the codes commission in the matter of fireproofing, in which a member of your family is interested? A. Yes. What about it?

Q. Have you not considered them with reference to that? A. No; never.

Q. You knew that your son was going into the Fireproof Construction Company, handling a system which had not passed the commissioner of buildings, did you not? A. I don't think he has ever had any put into the city at all.

Q. He has never what? A. There has been none of it ever put in by the city at all. Not as I know of.

Q. Of course not; and you know that where it is used in private buildings— A. I don't know that he has applied for it, even.

Q. You know that where fireproofing is put in private buildings, it has to be passed on by the commissioner of buildings, do you not? A. I suppose it does. I am not familiar with that.

Q. You knew that your son was going into the Roebling Fireproof business, did you not? A. When I first heard of him going in the business, I didn't know that fireproofing had anything to do with it at all.

Q. You did not know that? A. No, sir.

Q. You did not let your son go into a fireproofing business that was not acceptable to the department of buildings, without learning something about it, did you? A. I didn't know that he was into any fireproofing at all, when he first started into the business. He went simply with the Roebling firm—known as the Roebling firm, and I felt it was a very nice place for a young boy to go.

Q. Did you speak to the Roeblings about his going in? A. No.

Q. Did you speak to any member of the firm about his going in? A. No, sir. Mr. Hinckley first spoke to me about it. I told him he was a young boy coming out of college, and he heard about him, and he said he would try to get him in their firm, and I thought it was a very nice thing for him to do, and to put him in there. I had no idea at all that it was going to do any fireproofing work, and neither has it done any, that I know of.

Q. You meant that he should go into the steel business? A. Into the firm.

Q. Which does work principally in steel wire? A. Everything in general, I suppose.

Q. But largely steel wire? A. I don't know what the principal work of the company is. I should imagine it was wire or tubes, or something of that kind.

Q. It would be largely used in building these new bridges. You thought of that, did you not? A. No; I never gave it a thought.

Q. Is Mr. Hinckley the only man you talked with about this matter? A. Yes, sir; he is the only man that spoke to me about it.

Q. You never saw anyone in connection with the Roebling Company, did you? A. No.

Q. Then Mr. Hinckley is the man who came to you? A. Yes, sir.

Q. And the only man? A. Yes, sir.

Q. And he received stock in the enterprise, did he not?

The Witness—Hinckley did?

Mr. Moss—Yes.

A. I don't know.

Q. You never heard of that? A. No.

Q. He never told you that? A. No; he never told me.

Q. Did you not give your son the \$17,000 with which to buy his interest in it? A. That makes seven times you have asked me that.

Q. Do you still decline to answer it? A. Yes, sir.

Q. I ask you that because you answered so many questions about the Roebling business. Why is it that you always stick right at that point? A. Because that is my private affair.

Q. You are not willing to help out your son's statement on the question of veracity? A. I will stand by him all the time.

Mr. Moss—He has told two stories about it.

The Witness—No; he has not. He has only told one.

Q. Did you know that your nephew, McCann, was attorney for the Roeblings? A. No; I did not. I never knew anything about that.

Q. Did you know that he was receiving money? A. In fact, I paid very little attention to the thing at all. I knew very little about it.

Q. Did you know that he was receiving money from persons engaged in building operations? A. No; I did not.

Q. Or in fireproofing work? A. No; I did not.

Q. Was not that matter left to Mr. Grady entirely? A. I don't know.

Q. You did not interfere with Mr. Grady at all? A. Not with me—I didn't have anything to do with it.

Q. Did you have anything to do with your nephew becoming connected with Mr. Grady's office? A. Not the slightest.

Q. Were you ever spoken to about that? A. No, never.

Q. Did you furnish the money for your son, Richard S. Croker, to go into the Contractor's Supply Company? A. Not a cent.

Q. Did he pay for any stock in that company? A. I don't know that he is in it at all.

Q. You never heard of Richard S. Croker—— A. (Interrupting.) No.

Q. (Continuing.) Being in the Contractor's Supply Company?  
A. Never heard of it.

Q. Do you not know that the Contractor's Supply Company is furnishing a patent sewer pipe in the Bronx, a very large amount of it? A. I don't know that he is in it at all.

The Chairman—Is not that the United Company?

Mr. Moss—No, the Contractor's Supply Company. The United Company is the one in which Frank Croker is. The Contractor's Supply Company is engaged in furnishing a patent sewer pipe.

The Witness—I don't know anything about it. Those young men go into things that I am not familiar with.

Q. Then you never gave Richard S. Croker any money to go into that company with? A. No, sir.

Q. And had nothing to do with his going into it? A. No.

Q. And know nothing about the company furnishing this pipe to the city for use in the Bronx? A. No, I know nothing at all about it.

Q. You do not know the merits of the work that he is doing there, do you? A. Nothing about it.

Q. Or anything about it? A. Nothing about it.

The Chairman—Is this a convenient place, at this time, to discontinue the hearing?

Mr. Moss—Just wait a moment, if you can do so, and I can stop.

Q. Are you interested in what is called the Tide Water Company? A. Never heard of it.

Q. A concern that expects to harness the tides up at Hell Gate?  
A. Never heard of it.

Mr. Moss—I am surprised that you never heard of that.

The Witness—Never heard of that. That is news.



BOARD OF TRADE ROOMS, 203 BROADWAY,  
NEW YORK, FRIDAY, *April 21*, 1899—10.30 O'CLOCK A. M.

The committee met pursuant to adjournment, all the members being present, except Mr. Costello.

The Chairman—A quorum being present, the hearing will proceed.

Mr. Henderson—Mr. Chairman, before the proceedings are opened this morning, there is a matter which I desire to bring to the attention of the committee, and to ask a favor of it.

The Chairman—What is your name?

Mr. Henderson—My name is Henderson. I am a lawyer in the city and have been for some years, and I appear in that capacity to-day. The chairman has said, and it should go without saying, and it will be assumed as a fact, that this committee is in search of the facts. They are in search of the truth. I ask permission of the committee to assist it in that undertaking. One of the oldest methods, a method as old as the history of jurisprudence, has demonstrated that the surest way of obtaining the truth and nothing but the truth is by a cross-examination of witnesses. I do not ask for the production of witnesses, but in the furtherance of justice, and for the purpose of demonstrating and developing the facts to this commission, I am here for the purpose of asking permission to cross-examine certain witnesses. I am here now principally for the purpose of representing Captain Price, who has been assailed by a witness—or inferentially, by others.

Mr. Clarke—Suppose we do not have a speech, but have the request made and see what Mr. Henderson desires.

The Chairman—I think so. I do not think a speech had better be spread on the records.

Mr. Henderson—I suppose in making that request I can show why it is necessary. The reason is—

Mr. Clarke—We object to any reasons. We ask what the gentleman's request is.

Mr. Henderson—I will state my request, but I wish to state a reason for it. I hold in my hands letters from Mr. Buttner to the Governor of this State, and a communication from the Governor of this State, which show that the story is false.

Mr. Clarke—I object to any further speech made by Mr. Henderson, and ask that he be directed to make his request, in order that it may be ruled on without fireworks or gallery play.

Mr. Henderson—I understand that the ruling shall be made in view of the facts and the reasons which I make for the request; and that request is that I am in a position to show from the handwriting of this man himself that the stories he has interjected here are false.

Mr. Clarke—I object to any statement of that kind.

The Chairman—We will not go into any statements of Mr. Buttner's or anybody else's. If you will state your purpose we will consider it.

Mr. Henderson—My purpose is to assist this committee in demonstrating the facts in relation to the transactions testified to by Mr. Buttner, and by the cross-examination of Mr. Buttner himself.

The Chairman—When the time comes to consider that question we will take it up and not until then. The hearing will now proceed. Before going on with the hearing to-day, I want to make this announcement for the benefit of every person in the room. I will not permit or tolerate any demonstration favorable, or unfavorable, or comments, on any testimony that is given before this committee. This is a public hearing; every citizen has a right to attend here, and there is not the slightest objection to his being here. I regret that our accommodations are such that the people cannot all come here who may desire to, but I will say that order and decorum must be preserved in these hearings, and this committee, representing the Legislature of the State of New York, will not permit any demonstration, no matter whether it is favorable or unfavorable, with reference to any of the testimony, or with reference to the manner or conduct of witnesses in the chair.

HENRY M. McDONALD, being duly sworn, testified as follows:

Examined by Mr. Moss:

I reside in New York, but I am engaged in business at Mineral City, Virginia. I was a nominee for public office at the last election. I was the nominee of the Chicago platform Democratic party for governor of the state. My name was not printed, however, upon the official ballots. I have been admitted to practice law in this city for nearly twenty-five years, but have not practiced actively for the last fifteen years. I have some knowledge of affairs connected with the Flushing Gas Company, knowledge which I have gained myself, and knowledge which I have gained by conversations with directors, or with a director of the company. Mr. William B. Burnett, or Judge Burnett, as he is called, and I have been quite close business associates for the last three years. Owing to the fact that I have been in Mineral City for the last four or five months, quite a portion of the time, I have not seen much of him. We are, however, as far as I know, good friends. During the last year, the year 1898, beginning, say, about April, he and I were together a great deal until September or October, dining together one or more times a week, sometimes two or three or four times a week. During this social intimacy Judge Burnett stated to me that at the close of the year 1897, I think it was probably at that time, possibly at the beginning of 1898, James A. Simmons and himself obtained control of the Flushing Gas Company, which had been organized several years previously, and had been in operation for several years, lighting the then village of Flushing. Mr. Simmons and Judge Burnett acted as promoters. They interested Henry J. Braker and Howell W. Barnes, both of them men of means. Braker and Barnes together—Henry J. Braker is a member of the Democratic club, I understand; he is the same man that has been mentioned here as the present owner of the building up on Sixth avenue that was owned by the Democratic club; that is the Braker; he has an office on Pearl street—as I was about to state, Mr. Sim-

mons and Judge Burnett interested Mr. Braker and Mr. Howell W. Barnes, a banker at 16 Broad street, so that they purchased the first mortgage bonds of the company, receiving with the first mortgage bonds, as a bonus, a majority of the stock of the company. Then Braker, Barnes, Simmons, Burnett and another gentleman, whose name I do not now recall (I think he was a kind of a dummy), were made the directors of the company. Soon after this the election, or about this time Mayor Van Wyck was elected to the office of mayor, and assumed his duties the first of January last. After his election the Gas Company endeavored to obtain a contract from the city, providing that they should put in additional lights in Flushing, but they were not successful in their efforts. They were not successful in their efforts. Finally it was arranged by Mr. Braker with Mr. Croker that the stockholders of the company should turn over to Mr. Andrew Freedman twenty per cent. of the stock of the company, to be held for the benefit of Mr. Croker and Mr. Freedman.

By Mr. Hoffman:

Q. Were you present when that arrangement was made? A. I am stating what Judge Burnett, a director of the company, told me.

Q. You were not present? A. No, sir. This stock was contributed by the then stockholders pro rata, and was issued to Mr. Freedman. Thereupon Mr. Freedman was elected a member of the board of directors, the agreement on the part of Mr. Croker and Mr. Freedman being that as soon as possible the company would receive a contract for at least 500 additional lights; possibly 1,000 additional lights. Now, as to whether Mr. Croker has carried out his part of the contract or not, I don't know. My recollection is that he stated they had about 100 lights before Mr. Freedman was interested in it, but I am not quite positive. He stated to me, then, that the additional lights were arranged for. They were to be obtained at the time that the apportionment, or rather, the board of estimate set aside the money for lighting the different bureaus.



By Mr. Hoffman:

Q. Just one question: You have referred to Mr. Braker as being a member of the Democratic club. Do you know that he is a member of any other club? A. He is a member of the New York club.

Q. This conversation that you have given here: You were not present at the conversation were you? A. No; I stated that distinctly at the outset.

Q. You were narrating a conversation occurring between you and some third person? A. I am telling you what Judge Burnett, a director of the company, told me.

Q. So that you were not present at this conversation? A. No, I never had a dollar's interest in the company.

Q. Other than Mr. Burnett—— A. No, sir, but he was a director of the company and spoke for the company.

Mr. O'Sullivan—I would like to ask one question: If the witness is now under arrest for issuing bogus checks?

The Witness—No, sir, I am not, and as the question has been asked, I want to make an explanation to the committee. It is perfectly proper.

Mr. O'Sullivan—No, I am asking permission to ask questions. You asked me the nature of the questions.

The Chairman—You may ask them.

By Mr. O'Sullivan:

Q. You were under arrest within a short time, within a few days, for issuing bogus checks, were you not? A. I will give the full facts to the committee.

Mr. Moss—No, just answer the question.

Mr. O'Sullivan—Just answer the question.

The Witness—I think that I was. I am not sure.

By Mr. Moss:

Q. How long were you in the custody of anybody? A. With the permission of the committee——

Mr. Moss—No, answer my question.

The Witness—How long was I in custody?

Mr. Moss—Yes, of any person.

The Witness—I was confined, or I was in custody from about half past 3 o'clock Monday afternoon, until about 12 o'clock Tuesday.

Q. Were you taken to a magistrate? A. No, sir.

Q. How were you discharged from custody? A. Oh, I beg your pardon. I thought you referred to the time of my arrest. I was not taken to the magistrate until about 10 o'clock Tuesday morning.

Q. But you were taken to a magistrate and discharged, were you? A. Yes, sir, at once.

Q. There was no case against you? A. No, sir; the magistrate stated that I had done nothing criminal.

By Mr. O'Sullivan:

Q. At one time you assumed to lead a wing of the Democratic party, known as the Silver End Wing, did you not? A. I never assumed to lead anything. I differ from another man in that respect.

Q. Were you not found with Chairman Hackett, of the Republican state committee in conference, making arrangements to deliver the vote of the Silver Wing of the Democratic party? A. No, sir.

Q. And was not such a fact published and never repudiated by you? A. No, sir.

Q. Do you positively swear to that? A. I positively swear to that, with this—

Q. That you were not found by a number of newspaper men in conference with Chairman Hackett of the Republican state committee? A. I want to make an explanation.

Q. Is it not a fact? I do not want any explanation? A. No, sir, I was not.

Q. The Republican state committee, Mr. Chairman Hackett—  
A. I know to whom you refer very well indeed. I want to state

this, in order that I may appear right on the record. I never met Mr. Hackett to know him. I knew the sergeant-at-arms of the Republican committee. I do not recall that name now. I went in to inquire about the address of a gentleman who resided at Utica, and I asked the question of Mr. Hackett, not knowing that I was speaking to Mr. Hackett, and was with him perhaps one half minute, but I didn't know that I was talking with Mr. Hackett.

By Mr. Moss:

Q. When was that that you met Mr. Hackett? A. I met him at the Fifth Avenue Hotel.

Q. At what place? A. The headquarters.

Q. What headquarters? A. The Republican state headquarters.

Q. During what campaign was that? A. That was the campaign of 1896, I think.

By Mr. Hoffman:

Q. You were the candidate on the Democratic ticket? A. No, sir, I was not a candidate for anything. I was a private citizen then. I had no official connection with any party or committee.

By Mr. Moss:

Q. Then when you were talking with Mr. Hackett you were entirely a private citizen, and were not a candidate, and were not representing any candidature of anybody? A. That is a fact.

Q. And while you were a candidate you had no consultation with Mr. Hackett, or with the Republican managers, as I understand it? A. Mr. Hackett had died some time previous to my candidacy.

Q. I understood you to answer that you had not made the arrangement with anybody to deliver the vote of your particular branch of the Democratic party to the Republicans? A. That is it. I want to make this statement.

Q. Is that so? A. That is so. I want to make this statement, with the permission of counsel.

Mr. Moss—Yes.

The Witness—Although it has been charged frequently in the newspapers, I have never met Senator Platt, never exchanged a word with him, nor with Mr. Odell, and would not know Mr. Odell if I passed him on the street. When we were at Albany at the close of the last campaign, having our contest over the Ulster county petition, which was criminally and maliciously destroyed in the office of ex-Senator Hill, after consultation over the telephone with that worthy gentleman, I went to Mr. Burns and solicited him to contribute some money to enable us to make our contest in the courts. Mr. Burns told me that he would not give me any money; that it was a matter of no concern to the Republican party.

Q. That was for the prosecution of the criminal offense of destroying your petition? A. That was a part of the—that was one object I wished the money for.

Q. Did you ever receive a dollar, or did your organization ever receive a dollar, from any Republican source, to help your campaign? A. I will answer for myself. I never received a dollar, and as far as my knowledge goes, the organization never received a dollar.

Q. Did you yourself contribute of your own means to this campaign? A. About \$2,000. The balance, about \$8,000, was collected from Democrats.

Q. And in the contributing of your own funds to the campaign expenses of your own party, you became somewhat short financially, did you not? A. I became, to speak plainly, bankrupt and impoverished.

Q. So that you gave of your means to the extent of bankruptcy? A. Yes, sir.

Q. For the principles you stood for? A. That is it, exactly.

Q. And you said that some checks were stolen, did you not? A. I didn't say so, but there were.

Q. Certain checks of yours were stolen? A. Yes, sir. Let me explain, please.



Q. And they came into the possession of parties whom you did not know? A. Let me explain, will you please?

Q. Is that so? A. That is a fact.

The Chairman—It is necessary for us to go on with other matters.

Q. Wait a moment. There is just this. When you made this statement, the preliminary statement of this matter to me, did you communicate the fact that you had made a statement to me to any member of the Democratic club? A. I did.

Q. You supposed you did that in confidence, did you? A. I did.

Q. I shall not ask you the name of a member of the Democratic club to whom you said you had made a communication to me, but did your arrest immediately follow your communication to that gentleman? A. It did, the next day.

Q. And had you been in the city of New York, going back and forth about your business, for months since these matters occurred? A. I had.

Q. When you came before the magistrate, as I understand you, the case was dismissed upon the ground that there was no case against you? A. Yes, sir, immediately.

Mr. Moss—I think that is all.

The Chairman—That is all.

Mr. O'Sullivan—I would like to ask one question more: What is your present source of income?

Mr. Moss—I object to that.

The Witness—I will state.

Mr. O'Sullivan—He is the man charged with issuing bogus checks.

Mr. Moss—Not at all.

The Chairman—That is an unfair statement to make here. He states that he was arrested, and was immediately discharged. There are many men arrested who are innocent.

Mr. O'Sullivan—He was in the Tombs for two or three days? Is not that the fact?

The Witness—Let me answer the question, please, will you?

The Chairman—Yes; we will allow it this once.

The Witness—I was arrested on the checks that were stolen from my office, I believe by some Tammany Hall man.

By Mr. Moss:

Q. Were you not imprisoned in the Tombs is the question I asked? A. No, sir, never in the Tombs.

Mr. Moss—Let us cut this matter short. It is merely an effort to get some evidence to further persecute this witness.

Q. Is it not a fact that you made out certain checks to certain persons in your employ during the campaign, when you were a candidate?

The Witness—Will you allow me to answer it?

The Chairman—Yes.

A. I signed certain checks, but I made them out——

Q. And these checks were not paid? A. There were a very few that were not paid, but not these checks that we refer to. Those checks were paid upon which I was arrested.

Q. Do you want to be understood as stating to the committee that you made out checks which you signed in blank? A. I do, and delivered them to Mr. Brown, then president of the committee,

Q. How many did you make out in that way? A. Probably two to three hundred, but there were only fifteen to twenty checks returned unpaid; and these checks that I was arrested upon were checks that were stolen from the headquarters and had been paid, and that can be proved.

ANDREW FREEDMAN, being duly sworn, testified as follows:

Examined by Mr. Moss:

I did not hear the testimony of the preceding witness. It is true that I held some stock in the Flushing Gas Company, not a very large amount.

Q. About how much? A. That is a personal matter.

Q. You have already said that you held some, have you not? A. Yes, sir.

Q. But you hesitate to tell the amount? A. That is no reason why you should inquire. I have purchased stock in the company.

Q. Why is it proper in your judgment to admit that you have the stock, and then not tell how much? A. If you will show me any reason——

Mr. Moss—No, I am asking you.

The Witness—I am replying.

Mr. Moss—No, that is not a reply; not if I will show you the reason——

The Witness—Why I should reply to you, yes.

Q. What is the reason now why you will admit one part of the question and not the other? A. Because I believe you are inquiring into personal matters of mine that do not concern you. If you will show me any reason I will answer any matters.

Q. Is that the only reason? A. That is the only reason.

Q. It is testified that after you went into the Flushing Gas Company it received permission, or a contract or some arrangement was made, by which it was allowed to supply more gas, to light more lamps in Flushing. Is that true? A. Absolutely false. The facts are that we are supplying less to the city than previous to my going into the company. It is all a matter of record.

Q. Have not the resources of the company been increased since you went into it? A. No, sir; the city owes them for gas for

eighteen months, and we haven't been able to get our bills paid or collect a dollar.

Q. Has its business not increased since you went into it? A. Not materially, no, sir; in no way.

Q. Did you go into the company after conference with Mr. Croker? A. Mr. Croker knows nothing whatsoever about my holding stock in this company. I have never had a conversation with him in respect to it.

Q. Never conferred with him about it? A. No, sir; nothing about it whatsoever. I purchased the stock and paid money for it. That occurred, I believe, about a year ago. I am connected with the United States Fidelity and Casualty Company; I became connected with that concern December, 1897. I am aware that a great many of the city employees take their bonds from my company, those that desire to; there are a number; I believe there are 100, whether there are 200 I could not say. There are not as many as a thousand. I believe there are not as many as 500. Contractors, etc., take bonds in my company, too, very many; and persons generally who have dealt with the city departments, and are required to give bonds, take them from my company.

Q. Do you employ any methods of soliciting their business? A. No more than the general custom of companies.

Q. How do you approach these city employees, and city contractors? A. Well, you will have to send for some of my clerks and ask them that. I don't attend to that.

Q. You are the manager, are you not? A. I don't attend to that part of the business, Mr. Moss.

Q. You know it is done, do you not? A. You will have to send for the clerks.

The Chairman—You must answer that question. You know it is done? You can answer that yes or no.

The Witness—I don't understand the question, to answer it yes or no.



Q. You know it is done, do you not? A. They are generally approached by the Platt people first. They go there because they want to be put as co-sureties on the bonds—the Platt Company. You know them, Mr. Moss.

Q. I have heard of them, and I would like you to tell us all you know about it. A. I will give you all the information in my power.

Q. You have said that they are first approached by the Platt Company. What company is that? What is the title? A. The Fidelity and Deposit Company of Maryland.

Q. You say they are first approached by that company, do you? A. Generally.

Q. How do you know that? A. For the reason that their contract representative approaches them and asks to be placed on the bond as co-surety with us—with our company.

Q. How do you know that? A. I know that from statements that he has made to me personally.

Q. Who has? A. Mr. Flynn.

Q. Who is Mr. Flynn? A. The representative of the Fidelity and Deposit Company, the Platt Company. If you will allow me to explain——

Q. Wait a moment. You said a moment ago that you did not know anything about these matters, and we would have to go to your clerks to learn, so that I am a little surprised at your exhibition of knowledge? A. Not at all. I referred then to the city officials. Now, I am referring to the contractors.

Q. Let us take the city officials first, then. Now, what do you do or what do your clerks do in presenting the claims of your company to the city officials? A. Nothing more than forwarding them cards and circulars that we are prepared to write their bonds at the same rates that other companies do.

Q. You do send them circulars, then, do you? A. We most assuredly do.

Q. And have you heard or do you know that a great many of the city employees take out their bonds in the other company? A. A number take bonds in the other company, yes, sir.

Q. You know there are city employees who do that, do you?

A. Yes, sir.

Q. Employees under the departments of this city government?

A. Yes, sir.

Q. Now, about the contractors, where you say they have to get two sureties. You say that Mr. Flynn, of the other company, has told you that applications come to him first? A. Mr. Flynn is very energetic in seeking contractors and requesting that they be placed as co-surety upon the bonds with our company. The comptroller requires two sureties on each city contract, and the Platt Company has been placed as co-surety on very nearly every city contract that we have; but we have not been placed as co-surety, very happily, on any of the canal contracts.

Q. That is an answer that you have studied out beforehand?

A. No; but I thought you might be interested to know it, Mr. Moss.

Q. Did you get that answer put into your mouth at the Democratic club last night? A. No more than you did the question that you have given me. The only thing we put in our mouths up there is food.

Q. Then you were not at the Democratic club last night, were you? A. I will send you down a memorandum of my movements, yesterday, if you would like to have that.

Q. Were you? A. I was there.

Q. And you are there pretty nearly every night, are you not? A. I live there temporarily.

Q. And in consultation with Mr. Croker constantly about politics and about business, are you not? A. I have nothing to do with politics. I hold no conference of a political nature whatsoever.

Q. But you have a good deal to do with Mr. Croker in a business way, do you not? A. No, sir; mostly of a social nature.

Q. He has never helped you to get stock in corporations, has he? A. He has never assisted me in getting stock in any corporation, without my having to pay for it.

Q. Have you paid for your stock in every corporation in which you have stock now? A. In every corporation that I hold a dollars worth of stock, I have paid for it.

Q. You have paid for it, and the transaction will show on the books of the companies, will it? A. Always.

Q. Mr. Croker has some stock in this Guaranty and Bond Company, of yours, has he not? A. Yes, sir.

Q. Did he pay for that stock? A. Yes, sir.

Q. Will the books of the company show the payments? A. They will show that the stock is paid for.

Q. That he paid for it? A. It was paid for.

Q. That he paid for it? A. It was paid for.

Q. Oh, come, come, come. Now, you have given yourself away. A. I have nothing to give myself away on, Mr. Moss; nothing to give myself away on, sir.

Q. You have answered the question far enough now for you to answer it directly. Did he pay for it? A. Yes, sir; if it is any pleasure, he has paid for it.

Q. He helped to pay for it? A. He has paid for it; yes, sir.

Q. When? When he got it? A. When he got it.

Q. By check? A. That I don't know.

Q. Will the books of the company show the money that was received from Mr. Croker? A. The books of the company will show the money that was received from Mr. Freedman, who bought the stock and paid par for it for Mr. Croker.

Q. For Mr. Croker? A. Yes, sir.

Mr. Moss—You might have answered the question.

The Witness—I thought I would let you have a little pleasure. You seem desirous to have a little.

Q. Do you enjoy it? A. Very much; as much as you do.

Mr. Moss—All right. If it is any pleasure to you I will give you plenty of that kind of enjoyment.

The Witness—You can proceed right along. I am here for that purpose.

Q. Has the company declared and paid any dividends? A. It has never paid a dividend.

Q. How is that? Do you attribute that to the cutting of rates? A. We attribute that to good financiering.

Q. To good financiering—that it has never paid a dividend? A. Yes, sir. They believe in accumulating a large surplus.

Q. Are you accumulating a large surplus? A. We are, and a very large surplus.

Q. There is a sort of cutting war going on between the two companies, is there not? A. That you will have to inquire about from the other company.

Q. Is there? A. You will have to inquire for that from the other companies.

Mr. Moss—I am asking you.

The Witness—I don't choose to tell you. That is a matter that don't concern you; not a bit.

Mr. Moss—Like your mentor, you will choose what you will answer and what you will not answer.

The Witness—I will reply in a gentlemanly way to any gentlemanly question that appertains to the business of this committee.

Q. Are these gentlemanly questions or not? A. No, sir. You have no right to force upon me a question that has no bearing upon the investigation.

The Chairman—You are not the judge as to whether that question has any bearing or not on the investigation.

The Witness—All right, Mr. Chairman.

The Chairman—This committee will decide that question and not the witness. If this committee directs you to answer questions, you will be called upon to answer the questions and not pass an opinion on whether they are material or not. The committee is here for that purpose and not the witness.

The Witness—He is asking me about the finances of the company.



Q. I ask you if there is a rate cutting war between your company and the other company to which you have referred? A. That you will inquire from the Platt Company, and they will tell you.

Q. I ask you about your company. There must be two companies to it? A. There can be no war without two sides.

Q. Are you engaged in the rate cutting war with the other company? A. I prefer he should answer the question.

The Chairman—The stenographer will read the question to the witness.

The Stenographer (reading)—I ask you if there is a rate cutting war between your company and the other company to which you have referred? A. It is not applicable to this investigation.

The Chairman—The question is, are you engaged in rate cutting?

The Witness—I refuse to answer any further.

The Chairman—I direct you to answer the question on behalf of the committee.

The Witness—I refuse to answer any further. I replied to the question.

By Mr. Moss:

Q. Here are two companies that are engaged in giving bonds to the city contractors. You say they are both giving bonds, and giving their bonds together on the same paper? A. Yes, sir.

Q. Now, we want to know if those two companies that are bonding the city officers are engaged in cutting each other's rates? That is a practical question, relating to a matter of city government, and I ask the question again, having given you a reason for it? A. I will inform you about the Platt Company's rates as regards the contractors. They receive one-half of each premium that we receive; no more, no less. Should we receive a thousand dollars at a one per cent premium on a hundred thousand dollars bond, the Platt Company receives \$500 of it as co-surety.

Q. Then instead of there being a war there is a combination?

A. But there are other departments; there are other branches of the business. There is the Surety and Fidelity——

Q. But upon this matter of bonding the city contractors, do you mean to say there is a combination between your company and what you call the Platt Company, by which the rate is divided? Is that what you mean to say? A. I mean to say that the rate is one per cent. and the co-surety, whichever company it may be, receives one-half of what we receive.

Q. Then you say that applies to any co-surety, any company?

A. Any company that we place on the bond as co-sureties.

Q. Have you made that arrangement with any other company than the one you call the Platt Company? A. Yes, sir; we have with several.

Q. How long has your company been doing business? A. They have been doing business in New York, December or January—December, 1896.

By the Chairman:

Q. Is it not 1897? A. No, sir; they were in business a year before I entered the company.

By Mr. Moss:

Q. Then the company was already organized when you went into it, was it? A. Yes, sir.

Q. Who first suggested that you should go into it? A. The president of the company.

Q. Who was that? A. Mr. John R. Bland.

Q. Did you have any consultation with anybody before you went into it? A. No one.

Q. Did you talk it over with Mr. Croker before you went into it? A. I have no recollection of it.

Q. Will you say you did not? A. I have no recollection.

Q. Will you say you did not talk it over with Mr. Croker? A. It is a long while ago. I have met many people since that time and made many statements. I cannot recollect.

Q. You must have had some consultations with Mr. Croker, in order to interest him in the stock that was bought. When was that consultation had? A. That was subsequently.

Q. After you were asked to go into it? A. Yes, sir.

Q. And you mean to say that the company has been doing business all this time and has not paid any dividends, do you? A. I mean to say that the company has been doing a business all this time and has not paid a dividend.

Q. Has it earned a surplus? A. The stock has appreciated very much in value, and continues to appreciate.

Q. I want to call your attention to the testimony of your friend, Mr. Croker, concerning that company. After I had asked Mr. Croker if he received any money from you he said that his firm had received money from your firm frequently: "Q. What is his firm—Freedman's firm? A. The United States Fidelity Company. Q. How does he happen to pay your firm money? Are you interested in his company? A. I am, and get dividends regularly. Q. Do you mean checks for dividends are drawn to the order of Peter F. Meyer and Company? A. I do."

Q. How do you explain that? A. Well, now, I will explain that very easily. Mr. Croker is a stockholder and is also interested in the business of the office for our territory.

Q. For what? A. For our territory, which includes the Metropolitan district and my contract with this company is upon a salary and a commission basis.

Q. That is you get a salary and a commission? A. Yes, sir.

Q. Besides having your interest in the stock? A. Yes, sir; and Mr. Croker has an interest with me in this company.

By the Chairman:

Q. In addition to the stock? A. Yes, sir.

By Mr. Moss:

Q. So that you divide your salary and commissions with Mr. Croker? A. Mr. Croker has an interest in the business of this company; yes, sir.

Q. Has he more of an interest then than a stockholder's interest? A. Yes, sir.

Q. How is that shown? How is it evidenced?

The Witness—How is it evidenced?

Mr. Moss—Yes; how is it evidenced? Where is the evidence of such an interest?

A. Why I have given the evidence. I have made the statement.

Q. But where is the contract? A. There is no contract.

Q. There is no contract for such a thing as that? A. No, sir.

Q. Then Mr. Croker has no such agreement with you for the receipt of money from that concern as could be enforced in a suit at law, has he? A. No, sir; Mr. Croker relies upon my word.

Q. When was that word given? A. The word was given in—sometime subsequent to my having made the engagement with this company.

Q. What was that word? Tell me just what you said to him and just what he said to you? A. I won't tell you just what I said to him or just what he said to me.

Q. You will not? A. No, sir. It is sufficient——

Q. That is private business too, of his? A. That is of a private nature, yes, sir.

Q. Notwithstanding that your company is bonding the city officials and bonding the city contractors, and is not paying any dividends, you will not tell us what arrangements you have with Mr. Croker by which he gets moneys out of your company that are not dividends? You will not tell? A. I will tell you this. We are bonding the contractors at the same rate that every company charges.

Mr. Moss—Never mind about the rate.

The Chairman—We are talking about the city officials.

The Witness—We are charging the city officials the same rate that all the other companies charge. No imposition or extortion, as you imply. Pardon me.



Mr. Moss—No, you are thinking too much about “implying” and not about the questions. You are evidently afraid there is something in this that will rise up and hit you.

The Witness—I am not afraid of anything you can say and hit me with.

Mr. Moss—Forget your fears.

The Witness—I have no fears, Mr. Moss. Not at all. Not one.

Mr. Moss—Answer the questions. They are simple little questions.

The Witness—Not any.

Mr. Hoffman—What is the question, Mr. Stenographer?

Mr. Moss—I am going to put a question to Mr. Freedman. Do not let us get mixed up here. It is only fair to say to you that another reason why I am asking these questions is because we want to know whether the company that is bonding city officials is a solvent company, whether it is a safe company and whether there is an arrangement between the company and the government of the city by which a company that is not on a good basis is taking these bonds. Now, I tell you fair and square what is in my mind.

Q. I ask you again now, after all these considerations fairly placed before you, what was said between you and Mr. Croker by which he gets out of this company more than his dividends?

A. Why, I was very anxious to have Mr. Croker’s friendship and association in this company on account of the legions of friends that he has got all over this country, and I realized if Mr. Croker would take stock and join me in this enterprise it would be most successful, because he has got more men that are willing to serve him through friendship than any other man in this country. That is why.

By the Chairman:

Q. And it is advertised—that Mr. Croker is interested in this company? A. Mr. Croker has openly stated at all times that he is interested in the success of this company, Mr. Chairman.

By Mr. Moss:

Q. Is it advertised? A. It is not stated that way.

Q. Is it stated in the advertisement? A. No, sir, decidedly not; but his friends know it.

By Mr. Boland:

Q. Does his name appear among the stockholders? A. We don't publish a list of stockholders of the company.

Q. His name appears in some place on the papers of the company, does it not? A. In no place.

Mr. Boland—I thought it did.

The Witness—No, sir; it does not appear on any of the printing of the company.

By Mr. Moss:

Q. Now, again: What was said between you and Mr. Croker by way of contract or understanding out of which he gave this money? A. Why, it is immaterial to you.

Mr. Moss—It is not immaterial.

The Witness—Well, it should be.

Mr. Moss—I want you to answer the question.

The Witness—It is a personal question and appertaining to my personal business.

Q. Are you ashamed of it? A. I am not ashamed, but I will not answer.

Q. Are you afraid of it? A. No, sir; I am afraid of no question you can ask me.

Q. Are you afraid to let the other stockholders of the company know what it was? A. The other stockholders are well pleased, from all accounts.

Q. Do you know that there has been complaint by the other stockholders because no dividends have been declared? A. I have never heard of it. If this investigation is for the benefit of the Platt company, that is a rival concern—

Mr. Moss—Stop right off.

The Chairman—You will answer the question.

The Witness—Mr. Chairman, Mr. Moss is extending himself beyond his line of inquiry.

The Chairman—You will proceed with the questions.

Mr. Hoffman—If you desire to make any explanation you can indicate it, and I will ask you for that explanation.

The Witness—I wish you would. I think it is becoming a farce, when he asks me the condition of our company for the benefit of a rival.

Mr. Moss—Will you call the witness to order.

The Chairman—I have done so.

Mr. Moss—I trust the members of the committee will treat me with some sort of consideration in the conduct of the examination. I suppose we want to examine the witness, and I suppose it cannot be done if members of the committee interrupt counsel.

Mr. Hoffman—I desire to say that this investigation should proceed fairly.

Mr. Moss—That is for the committee to determine.

Mr. Hoffman—As a member of the committee I insist.

Mr. Moss—You must talk to the chairman, and not to me.

The Chairman—You will have an opportunity to ask any fair question. You interrupted during the examination.

The Witness—I would like to know my rights. I have a right to an answer from you.

The Chairman—Your rights will be protected.

The Witness—I have a right to ask you. I would like to know from you whether this gentleman can inquire from me matters relating to a stock corporation in a foreign State that has nothing to do with this inquiry—if I am obliged to answer it.

The Chairman—If it is germane to this investigation. You have already testified that this company furnishes bonds to the city officials. Mr. Moss has indicated to you that it is important to know what arrangement exists between that company and the city officials and whether that company is such a one as makes it safe to have its bonds issued for the fidelity of the city's

servants. That is one of the things we are here to inquire about.

The Witness—Then you ought to inquire——

The Chairman—These questions that have been addressed to you are for the purpose of ascertaining what the conditions of this company are.

The Witness—That is a matter he ought to inquire of the insurance department. That is a department in charge of that.

Mr. Moss—Wait.

The Witness—I want a fair opportunity to answer.

By Mr. Moss:

Q. You have said that you are dividing your salary with Mr. Croker? A. I didn't say that.

Q. Are you? A. No, sir.

Q. What salary are you receiving? A. A good deal more, I guess, than you are receiving.

Mr. Moss—Answer the question.

The Witness—Fifteen thousand dollars a year; and I work very hard for it, from morning until night.

Q. That is to be assumed. Fifteen thousand dollars. And you receive your commissions besides? A. Yes, sir.

Q. What commissions do you receive in the course of a year? How much? A. Well, now, that is a personal matter.

Q. Will you tell or will you not? A. I don't know as I ought to tell you my private affairs. I see no reason why.

Q. Do you divide your commissions with Mr. Croker? A. I won't say I divide them. I say Mr. Croker receives a proportion.

Q. A proportion of what? A. Of the commissions.

Q. No part of the salary? A. No, sir.

Q. But a proportion of the commissions? A. Yes, sir.

Q. What proportion? A. Well, I told you before, I don't think it is any of your business.



Q. Supposing that I assume that Mr. Croker takes the lion's share, nine-tenths, does he receive as much as that? A. You are assuming mostly everything this morning. You can assume.

Q. Does he assume as much as that? A. You can assume.

Q. Does he receive half? A. I have already stated to you that I would not reply to any questions that I considered of a personal nature.

Q. Does he not receive them all? (No answer.)

The Chairman—Mr. Witness, I direct you to answer the question.

A. No, sir, he does not.

Q. Does he receive half of them? A. I reply that I will answer no further.

The Chairman—The witness is directed to answer the question.

The Witness—That is a personal question, and I refuse to reply.

Q. Do those commissions that Mr. Croker receives amount to \$50,000 a year? A. No, sir.

Q. Do they amount to \$25,000 a year? A. I refuse to tell you anything further about my personal business arrangements.

Q. Why will you tell me that they are not \$50,000 and stop at \$25,000? Is it because it is between \$25,000 and \$50,000? A. No; I didn't want to make you so envious of the greater amounts. I thought I would tell you.

Q. Is it \$40,000? A. I refuse to reply to any further questions on this subject, appertaining to my private affairs.

The Chairman—The witness will answer the question.

The Witness—Mr. Chairman, I have already replied as much as I think it is necessary for me to do so.

Q. Does Mr. Croker know that the money he is receiving is a part of your commissions? A. You will have to ask Mr. Croker that.

Q. Have you told him? A. Now, these are all personal matters, and I refuse to reply to any personal inquiry regarding my private affairs. It is not a public affair. This is a private affair of mine. There is lots and lots of business that this company has here, and very nearly all of its business is of a nature that is not official; and you have no right, I believe to inquire into any matters appertaining to my private affairs.

Q. Do you divide with Mr. Croker the commissions that you take on unofficial business? A. That is another question that I refuse to answer.

Q. Do you divide only the commissions that are received on official business? A. For the same reason as before.

Mr. Moss—I ask you to direct the witness to answer that.

The Chairman—The witness is directed to answer the question.

The Witness—I have stated my answer.

Q. How much money have you sent to Mr. Croker from this company during the last year? A. I don't remember.

Q. Can you find out? A. I don't know. I might.

Q. Have you any record of these moneys that you sent to Mr. Croker? A. No, sir.

Q. Do they appear in any account book? A. No, sir.

Q. Do they appear in any check book? A. No, sir.

Q. Did you send them by checks? A. I don't remember. Possibly I might have sent one. I don't remember whether I did or not.

Q. Did you give it to him in money? A. Yes, sir.

Q. Generally in bills? A. Yes, sir.

Q. So that there is absolutely no record on the subject, is there? A. None that I remember of.

Q. Do you know whether his recollection of the amount is any better than yours? A. Now, you will have to ask Mr. Croker that.

Q. Do you not know about that? A. You will have to ask him that.

Q. Do you know whether he knows? A. I have stated that you will have to ask him.

Q. That is not an answer. Do you know whether he knows? Do you know whether he keeps an account? A. I am sure I don't know everything Mr. Croker knows. I wish I did.

Q. Do you know whether he keeps an account of these moneys? A. I really don't know.

Q. Then you do not know how much you have given Mr. Croker since you were in that company, do you? A. No, not exactly. I have very many financial transactions. I have five companies that I am interested in, and I can't remember all of my transactions.

Q. Do you conduct all of your transactions in those five companies by bills or do you give checks? A. Many of them. Many of them by bills.

Q. It is a common thing for you? A. Common.

Q. Without any account? A. Often times, yes, sir.

Q. Is that the way you are transacting the business of this company for your stockholders? A. That is the way I am transacting my private affairs in this company. Not for the stockholders, but my private affairs.

Q. The private affairs in which the stockholders are interested? Are they carried on by means of checks or bills? A. They are carried on by means of checks.

Q. Always? A. Always, yes, sir.

Q. And there are careful accounts kept of those checks? A. Yes, sir.

Q. And they are traced—they could be found? A. Yes, sir.

Q. But when you come to your private business you use bills? A. Not always, no.

Q. But generally? A. Yes, sir.

Q. Are those bills always drawn out of the bank and handed over to Mr. Croker as drawn from the bank? A. No, sir.

Q. They are made up in any way that you have to get money, are they not? A. Not drawn directly from the bank. I have considerable amounts of money with me at times.

Q. Do you carry this money upon your person, and when you feel like it hand it to Mr. Croker? A. That I wouldn't care to tell you because I don't want to let you know how much money I carry on my person.

Q. You mean that I shall understand that you carry considerable money on your person for this very purpose, do you? A. No, sir.

Q. You have said that you use bills in transacting matters for these four or five companies— A. Where it relates to my private part; my private end of the company, yes, sir. The salaries that I receive and disbursements that I make personally.

Q. And commissions? A. The commissions—some of them.

Q. Does Mr. Croker receive money from all of these five companies? A. He does not.

Q. Does he receive money out of your earnings in all of these five companies? A. No. Now, I will clear your mind very quick on that.

Mr. Moss—You have answered.

The Witness—Mr. Croker is not interested in any business proposition with me whatsoever excepting the small interest, or his interest in the United States Fidelity and Guaranty Company.

Q. Not in any real estate matters? A. He has in the past been interested, but not since our administration has been in office. I have not had a real estate transaction since 1898.

Q. Has he no interest in any real estate in which you are interested at the present time? A. Not any.

Q. Nor any member of his family? A. Not any.

Q. Do all of these commissions out of which you have made payments to Mr. Croker appear on the books of the company? A. There is a record of every transaction in our office, on our books.

Q. But all the moneys, then, that you have given to Mr. Croker appear on the books somewhere, as having come into your hands, do they not? A. Oh, yes.

Q. What? A. Oh, yes.



Q. Have you not within a year past handed Mr. Croker any money that came in some other way than from this trust company? A. Yes, sir.

Q. What moneys have you handed him? A. I bought and sold some stock from Mr. Croker in this company.

Mr. Moss—But I said outside of this company.

The Witness—No, outside of this company. Pardon me, I thought you meant the commissions.

Q. You have had no financial dealings with him, then, except what you have told? A. Yes, sir.

Q. No other financial dealings? A. Yes, sir.

Q. What other financial dealings? A. One other.

Q. What is it? A. It was in an operation.

Q. What was it, or is it? A. It is a purchase or sale of a European security.

Q. What was it? A. It was a European security. A security that was not dealt in this country at all.

Q. Where was that purchased? A. In London.

Q. When? And did you handle any considerable amount of money in that matter? A. That all depends on what you call a considerable amount.

Q. What was the amount? A. Oh, it was not very large.

Q. I do not think that is an answer to the question. What was the amount? A. It was not a very large amount.

Q. Fifty thousand dollars? A. That is a personal question. I have told you now it was not a very large amount.

Q. Where was the money paid to Mr. Croker? A. I paid the money to Mr. Croker.

Q. Where? A. Here in New York.

Q. And did you go over to England to get the money, or to Europe? A. No, sir.

Q. Was the money paid to you in New York? A. Yes, sir.

Q. As to this division of salary and commission that you have spoken of, when and where is that money paid to Mr. Croker? A. It is generally paid in his office.

Q. When? How often? What times? A. Oh, at unstated intervals.

By the Chairman:

Q. At stated intervals? A. Unstated intervals.

By Mr. Moss:

Q. I ask you if you tell Mr. Croker, or give him to understand that the moneys you pay him out of this bond company are dividends? A. Now, Mr. Croker might have so understood, and he really so understands it. It really is a dividend of the business that was done here. While it was not a stock dividend it was a business dividend. That covers Mr. Croker's idea upon the subject.

Q. A business dividend of the United States Fidelity Company? A. Yes, sir, a business dividend of our office. That is to say, it was a dividend on the amount of business. Not a stock dividend upon the company stock.

Q. Is any other stockholder receiving such dividends as that? A. Yes, sir, I am.

Q. You are? But any other stockholder? A. Not that I know of.

Q. How long is this division to continue? A. Well, I don't propose to tell you.

Q. Is there an agreement for the length of time that it is to continue? A. I don't propose to answer that question.

Q. When you asked Mr. Croker to go into the company, did you make that proposition to him, that you would give him a share of your commissions? A. No, sir, I did not.

Q. Did you propose it to him yourself? A. Yes, sir, I did propose it to Mr. Croker.

Q. It was your proposition, then? A. Yes, sir.

Q. Where was it proposed and when? A. I don't remember.

Q. I understood you to testify that you first spoke of this matter to Mr. Croker? A. Yes, sir.

Q. Do you not know that the representatives of the company went to Mr. Croker first? A. No, sir.

Q. Will you say that they did not? A. They did not, as far as I know, no, sir.

Q. Do you mean to say that the representatives of the company went to you first and not to Mr. Croker first? A. Yes, sir. They wanted to get a——

Q. Was it not first proposed to Mr. Croker that he should take an interest in the concern, and did not Mr. Croker suggest you as the manager for it? A. No, sir.

Q. You are positive of that? A. Yes, sir; as far as I can recollect.

Q. Now you say as far as you can recollect? A. I say I am positive as far as my belief is, Mr. Moss.

Q. Will you say that it is not true that some one representing that company went to Mr. Croker and asked him to take an interest in it and then that he proposed you as the manager of it? A. No recollection of that whatsoever. I was the first party who was seen in the matter.

Q. It is possible that it may be so? A. Many things are possible that I am not conversant with.

Q. Now, do you mean to say that you told Mr. Croker that this money you were giving him was dividends of the company? A. I have replied to that. Mr. Croker thought——Mr. Croker might have believed that this was a stock dividend.

Q. Did you give him to understand that it was a stock dividend? A. No, sir.

Q. Did you intend that he should understand it so? A. I did not. That is what Mr. Croker intended to convey when he said about the dividends of the company.

Q. How did you come to volunteer what Mr. Croker intended? How did you know what he intended? Did he tell you so? A. Because you were purposely attempting to confuse the evidence of Mr. Croker in implying that Mr. Croker had made a false statement, when Mr. Croker told you that he had received dividends on a stock, and I have stated that the stock had never declared a dividend.

The Chairman—It is the explanation of that divergence of statement that we are trying to get at.

The Witness—I am trying to give it, if you will allow me.

Q. You have misunderstood my purpose and it is fair that you should understand my purpose. My purpose is not to show that Mr. Croker testified falsely at this time, but my purpose is to show that you, by your method of doing this business, misled him, the leader of Tammany Hall in this city, into the position of dividing commissions with you on a bond company? A. No, I am not misleading Mr. Croker and you can't mislead Mr. Croker or anybody else can't mislead Mr. Croker.

Q. Have you not misled him? A. No, sir, I have not.

Q. Have you not made him think he was getting dividends from a company? A. Why, calm yourself, Mr. Moss. There is no necessity for this.

Mr. Moss—You calm yourself.

The Witness—No, sir.

Q. Have you not? A. No, sir.

Q. Have you not intended that he should understand it so? A. No, sir.

Q. Do you believe for a minute that Mr. Croker would knowingly divide your commissions with you? A. No. I believe that Mr. Croker has a right to engage in any honorable business proposition.

Mr. Moss—No, I do not ask you whether it is an honorable one or not.

The Witness—It is a business proposition.

Q. Do you believe that your leader, your friend, the head of the Tammany Hall organization of this city, in the view of the people of this city would stoop to the business of dividing your commissions in a bond company that bonds the city employees? Do you believe that? A. Mr. Croker has not stooped, Mr. Croker



has simply had a business arrangement with me, the same as Mr. Platt's son has with his father.

Mr. Moss—That is your little speech.

The Witness—I know; but your little speech was just ready to bring out this little answer.

Mr. Moss—Mr. Platt's son and Mr. Platt's company are not in this company.

The Witness—It is an old fight with Mr. Platt and Mr. Platt's son and this company. Mr. Platt's sons are in that company for that purpose—the Platt company.

Mr. Moss—I do not care a rap about either one of those companies, I want answers to my questions.

The Witness—You evidently have quite an interest in one company.

Mr. Moss—I have no stock and I do not divide commissions with anybody.

The Witness—No, I don't think you divide with anybody.

The Chairman—Mr. Freedman, you must answer the questions.

Mr. Moss—We are having a sample of the kind of manhood that is in these people, constantly, in their answers.

The Witness—That is too bad.

Mr. Hoffman—Do you think that is a fair statement? I want to take issue with you upon that statement.

Mr. Moss—Then we are not having a sample of the manhood of these people, in the answers of Mr. Freedman?

The Chairman—Stop this discussion and diversion. Proceed with the examination.

Mr. Moss—I want it understood that I want to let the witness show his manner of thought and action in all these things, and my questions are very helpful in demonstrating these things.

Q. Now, have you not induced Mr. Croker to believe that he was getting the dividends of this company in a regular and orderly and honorable way? A. Now you are asking me a personal question.

The Chairman—You will answer that question yes or no.

The Witness—I will not reply to you any further.

Q. You will not answer that?

The Witness—Do you wish another reply?

Mr. Moss—You will not answer that?

The Witness—You won't allow me to answer in my own way.

The Chairman—You are allowed to answer yes or no to the question.

The Witness—I will have the privilege of saying more than yes or no.

The Chairman—We will see whether you will or not.

Q. Will you answer it? Let the stenographer repeat the question.

The Stenographer (reading)—Now, have you not induced Mr. Croker to believe that he was getting the dividends of this company in a regular and orderly and honorable way?

A. Mr. Croker is receiving his dividends in an absolutely honorable way.

Q. No. Have you not? A. Inquire about Mr. Platt's dividends for a while, now.

Q. Have you not induced him to believe that he was getting the dividends—— A. Will you allow me to have my overcoat? Pardon me.

Q. You have gone to your overcoat and got a paper out of it, and it is evident that you think it is material; so out with it. What is it? A. I will produce my paper when it is material to my own desires.

Mr. Moss—I have given you the opportunity to do so now.

The Witness—I will produce it at my time.

Mr. Moss—And when that paper is produced and testified from you know it will have to come to me?

The Witness—Will I get it back?

Mr. Moss—Yes, you will get it back.

Q. Now, after your little diversion and rest, I ask you again: Did you not intentionally lead Mr. Croker to believe that he was getting the dividends of this company and not the commissions? A. Mr. Croker evidently believed that he was receiving dividends——

Q. Did you not——

The Witness—Pardon me.

Mr. Moss—No, that is not an answer to my question.

The Witness—Pardon me a moment. You will allow me to answer the question.

Mr. Moss—Now——

Mr. O'Sullivan—This witness has undertaken to tell the whole truth and not parts of it, as Mr. Moss wants.

Mr. Clarke—I object to Mr. O'Sullivan's making a speech.

The Chairman—You will kindly take your seat.

Mr. Moss—Mr. O'Sullivan represents the city departments. I do not see what he has to do with this witness.

Mr. O'Sullivan—I am trying to get answers from this witness.

Q. The question is what you did, not what he did. Did you not intentionally lead Mr. Croker to believe that he was getting dividends? A. No, sir.

Q. That is an answer to the question. You said a few minutes ago that you paid these moneys to Mr. Croker at unstated intervals. What did you mean by that? A. Sometimes in three months, sometimes in four.

Q. Sometimes in three and sometimes in four; and sometimes in two? A. No, sir.

Q. Never as short a time as two? A. Often times amounts in between, for sale of some small amounts of stock that he held in the company.

Q. Did you give him a statement of the moneys that you gave him, showing which were stocks and which were dividends? A. I made no statements whatsoever.

Q. Then sometimes you gave him money that was the proceeds of stock and sometimes money that was commissions?

And he did not know which was stock and which was commissions? Is that what you mean? A. Oh, yes.

Q. Did he know? A. I don't know. I don't say that he did or he did not.

Q. Did you tell him? A. I can't recollect.

Q. Did you give him any statement? A. No written statement.

Q. Your matters are entirely confidential, are they? A. Some matters.

Q. He relies entirely upon you, and whatever you give him he asks no questions? A. That is not so.

Q. Is not that the way of it? Does he ask you questions? A. If he feels like it.

Q. Does he? A. Sometimes.

Q. Does he ask you what these moneys are that you give him from the Bond Company? A. No.

Q. Then it is entirely confidential, so far as the Bond Company is concerned? He takes what you give him and believes it is all right? A. He knows whatever money I give him is from that company, because he knows I have no other moneys to give him without explanation.

Q. What are the regular times for declaring a dividend in stock companies in this city? A. Sometimes two, and sometimes four times a year.

Q. Six months or quarterly? A. Quarterly. Some monthly.

Q. And your payments to him have been entirely irregular, then? A. Yes, sir.

Q. How should he think they were dividends, if they were paid so irregularly? A. The dividends were received irregularly.

Q. Dividends were received? A. Not dividends. My commissions were received irregularly.

Q. But he did not know they were commissions, according to your statement? A. That is not so.

Q. He did know they were commissions, then? A. That is not so. It was the business——



Q. Did he know they were commissions? A. It was the business profits of our office. It was the business profits of our office, in which Mr. Croker was associated with me.

Q. Then, do you mean to say that you have an office in the company distinct from the company? A. No, sir. I am the vice-president and represent the company here and in charge of the offices here.

Q. But is not that office run for all the stockholders? A. Yes, sir.

Q. How is it, then, that all the stockholders do not share in it?

(The witness made an answer which was ordered to be stricken from the record.)

Mr. Moss—Answer the question properly, if you please?

The Witness—I have replied to it.

Q. How is it, then, that all the stockholders do not share in it?

The Chairman—The witness will answer the question. He is directed to answer the question.

A. You know very well that one man must do the labor in a stock company, or a few men, for the benefit of all the stockholders, and they receive salaries and they receive certain sums of money for their labors that stockholders are not entitled to, for the reason that they do nothing but hold their stocks, looking for dividends. That is why.

Q. But you have said that they were profits of an office that you conducted—you and Mr. Croker. Now, what is that office and what are those profits? A. I stated the office that I conducted and not Mr. Croker.

Q. Is he your assistant or you his assistant? A. He is not my assistant. Neither am I his assistant.

Q. Is he the assistant vice-president and manager of the company? A. No, sir; he has no official position in the company.

Q. Why do you speak of the profits of your office and of his office there? A. I say the profits of my office means——

Q. Of your office? A. Yes, sir. It means the department which I have charge of, which is separate. Our company is divided up into 300 agencies; three hundred departments.

Q. What are those profits made up of that you divide with Mr. Croker? A. Mostly from bonding. In fact, entirely from bonding.

By the Chairman:

Q. What territory does your agency take in? A. It covers the lower part of New York State, Connecticut and New Jersey.

By Mr. Moss:

Q. Then, do you divide with him actual profits of bonding? A. I have informed you that.

Q. You said you divided your commissions with him. You have not yet said that you divided any profits of bonding with him, until just this minute? A. The commissions are based upon the amount of business that is done. Now, Mr. Moss, let me tell you——

Mr. Moss—No.

The Witness—I will answer no more questions, because your questions are getting very tiresome. I will answer no more.

Mr. Moss—Oh, they are, are they?

The Witness—They are getting very tiresome. Your methods are very tiresome. If you will come to the point and ask me a straight question, I will give you a straight reply to any question you will ask me; but if you are trying to waste time, I will not waste it with you.

Q. Here is the question. I guess you will have to sit there and waste it for awhile. What are these moneys that you divide with Mr. Croker? A. I refuse to answer any more questions of a personal nature.

Q. You have already said that you divided commissions with him. You have, a minute ago, said that you divided the profits of bonding with him. Now, what profits of bonding do you di-

vide with him? A. I have stated to you that I will answer no more questions of a personal nature.

Q. Do you refuse to answer whether you divide profits of bonding with Mr. Croker? A. I have stated that I will answer no more questions of a personal nature.

Mr. Moss—I ask that the witness be directed to answer the question.

The Chairman—The witness will answer the question.

The Witness—I refuse to answer any more questions of a personal nature.

The Chairman—You are directed to answer the question of Mr. Moss.

The Witness—You have my reply.

Q. You have already stated that you divide the profits of bonding with Mr. Croker, and now I ask you how can you do that honestly towards the other persons who are interested in the business? A. Go and ask Mr. Platt and his sons how they do it.

Q. Is that your answer to the question? A. Yes, sir; that is my answer to the question.

Mr. Moss—Your methods are the question now.

The Witness—I will answer any proper question.

Q. How do you honestly towards the other persons interested in your corporation divide the profits of bonding with Mr. Croker? A. You are talking, evidently, for the purpose of speech; nothing else.

Mr. Moss—Answer the question.

The Chairman—Answer the question.

The Witness—I will not reply to the question.

The Chairman—You are directed to reply to it.

The Witness—I will still refuse to reply to the question, and I will ask you to ask Mr. Moss to put his questions in proper, decent, answerable shape. He is asking questions that are impertinent, that are irrelevant, and that he knows have no foundation.

The Chairman—You will permit me to state that you are equally, if not more, impertinent in your replies, that are entirely irrelevant.

The Witness—It is very necessary, in the way you are conducting this investigation.

The Chairman—I will not permit you——

The Witness—The committee know where they can find me any time they want me. What right has he got to go into my business methods?

By Mr. Moss:

Q. Mr. Croker is a truthful man, so far as you know, is he not?

A. Yes, sir.

Q. And Mr. Croker answered this question: "Q. Well, how does he happen to pay your firm money? Are you interested in his company? A. I am, and get dividends regularly." Q. What did he mean by regularly? A. You have rehashed that often enough, that often enough.

Q. I ask you what he meant by regularly? A. I won't reply to another question of yours of that nature.

Q. Have you paid him these moneys that you divide with him regularly? A. I will not reply to another question of my personal affairs to you.

Q. You will not sustain Mr. Croker's reputation for veracity?

A. Mr. Croker's reputation needs no sustaining from me or anybody else.

Q. I ask you the question once more, is it true that you have paid him these moneys regularly? And I ask the chairman for a direction? A. And I make the same reply.

The Chairman—The committee directs you to answer the question.

The Witness—I refuse to answer any questions of a personal nature.

The Chairman—You will pardon me; there is a discrepancy between your testimony and that of Mr. Croker, and if you care to



let the testimony stand as it is the committee will permit it to stay so.

The Witness—It has been explained sufficiently. The committee is not here to help us out, I will tell you that frankly.

The Chairman—If you are satisfied with the witness's answer, we will let it stand that way, Mr. Moss.

Mr. Moss—I will suspend the examination of this witness at this time. I will send you word when we want to complete it.

By Mr. Hoffman:

Q. I would like to ask one or two questions. How long have you resided in the city of New York? A. I was born in the city of New York thirty-nine years ago.

Q. And you have been engaged in business in the city of New York? A. Legitimate business all my life; from the time I entered into business.

Q. For how many years? A. Twenty-three years.

Q. How many years before 1897 were you engaged in business? A. Twenty-one years, about.

Q. And expect to continue in business? A. All my life.

Q. In the city of New York? A. Yes, sir.

Mr. Moss—That will do?

The Witness—Can I go for the day?

Mr. Moss—Yes.

The Witness—Gentlemen of the press, here is a statement of the entire business of the company and all of the companies, for publication. There is only one and you can divide it up. (Handing a document to a member of the press.)

Mr. Moss—Is this a dignified proceeding? Come back to the stand and sit down. I am perfectly satisfied that that statement should go out. I invited the witness to give it out.

The Chairman—He declined to do so.

Mr. Moss—He declined to do so at the time. That is true.

Mr. O'Sullivan—On privileged grounds.

Mr. Moss—I call your attention to what is in my judgment the

most flagrant exhibition of bad manners and contemptuous misconduct—

Mr. O'Sullivan—Is this gentleman's manners under investigation?

Mr. Moss (continuing)—That I have ever seen before an investigating committee, to leave the stand and two feet from the stand to throw out a paper broadcast to the gentlemen of the press, with the remark that has been made. The paper is there, and I am glad it is out and would be glad to have anything that this witness can say; but these statements have not been made on the stand and are just thrown out, in this contemptuous way. It is a flagrant contempt of this committee, and while I do not now suggest that the committee should take any criminal proceedings against this gentleman, I want to say right here that I propose, that we propose to look upon this contempt, business in a regular, logical and orderly way, and when a sufficient number of gentlemen have put themselves in contempt of this committee we will take care of them in a bunch.

The Witness—Well, we will have good company.,

Q. Now, Mr. Freedman, you have just handed the gentlemen of the press a statement, in the presence of this committee, have you not? A. Yes, sir.

Q. And you have just stated that that is an account of the business of your Bond Company and what you call the Platt Bond Company, is is? A. Yes, sir.,

Q. Is it a true statement? That was while you were still a witness on the stand, with notice that your testimony was not completed and that you would be required to come back? A. No, sir; I had been discharged for the day at the time.

Mr. Moss—But you were told that you were a suspended witness and would be required to come again.

The Witness—I was told that I was through for the day, and you would let me know when you wanted me.

Mr. Moss—The record shows.

The Witness—The record shows.

Q. How is that statement made up? A. I don't see why you make all this fuss about the statement; I see nothing about that statement that is so desperate that there need be any confusion about it.

Q. How was it made up? A. You will see it and read it in the morning. I gave it to the public press. They are entitled to a statement of that kind. They can secure it the same as I did, or the same as you can secure it.

Q. How is it made up? A. You will see it in the morning.

The Chairman—You are directed to answer the question.

The Witness—That is a private affair of mine. That was a statement that was prepared, that I have.

Q. Prepared by whom? A. I won't tell you by whom.

Q. Then you want the gentlemen of the press to understand that it is a paper the parentage of which will not be stated? A. It is a matter of public record. Each newspaper and every man——

Mr. Moss——

The Witness—Pardon me. Every man and newspaper can secure it if they want it. It is all a matter of public record.

Mr. Moss—Will you direct the witness to answer the question, who prepared this?

The Chairman—The witness is directed to answer the question.

The Witness—It is a matter of public record.

Q. Who prepared it? A. It is a matter of public record.

Mr. Fallows—Will you ask the witness if this is the paper that he produced from his overcoat pocket, when he was on the stand?

Q. Is this the paper that you took from your overcoat pocket while being questioned? A. Yes, sir.

Q. And you carried it with you up to the witness stand, did you? A. I had it in my possession.

Q. Where was that paper prepared? A. The paper is a public record. It will speak for itself.

By the Chairman:

Q. Where was that paper prepared? A. I have given my reply.

The Chairman—You are directed to answer the question.

The Witness—I have given my reply.

By Mr. Moss:

Q. Who wrote it? A. I made my reply to that question.

Q. Do you decline to answer the question? A. I have made my reply to it.

Q. Is that all the reply you will make? A. That is all.

Q. Is it a true statement? A. I believe it to be.

Q. How do you know it to be true? A. Because, I am informed that it was copied from the records, and I ask the gentlemen to go there and inquire.

Mr. Moss—You are not asked that.

The Witness—I didn't give the statement to you. I gave it to the gentlemen of the press.

Q. How do you know that it is a correct copy of the public records? A. I will assume the responsibility. I am responsible.

Q. That is not the question. How do you know it? A. I will assume the responsibility.

Q. Will you answer the question directly? A. I have already answered?

Q. Is that the best answer you will make? A. Yes, sir.

Mr. Moss—Will you direct him to answer the question?

The Chairman—The witness is directed by the committee to answer the question.

The Witness—I have already replied.



Q. When was that paper made up? A. I am not going to answer any more about that paper. The press has it. It is a matter of public record. That ends it.

Q. Was it made up in your office? A. I refuse to reply to you.

The Chairman—Mr. Moss, I suggest that you ask the reason, and whether he declines to answer on the ground that it would degrade or incriminate him.

Q. Do you decline to answer these questions which you have so far declined to answer, upon the ground that they would tend to convict you of a crime or to degrade you? A. No, sir; you can't convict me of any crime, or degrade me.

Mr. Moss—I did not ask you that.

The Witness—No.

Q. I asked you if you declined to answer upon the ground that it, or your answers, would so tend? A. No, sir. That has no bearing at all.

Q. Was that paper given to you by any gentleman in this room? A. I refuse to reply to any further questions in reference to that matter.

The Chairman—The committee directs you to answer the question.

The Witness—I refuse to reply. It is a private matter; personal matter.

Mr. Moss—I am willing to take you on that. How is it a personal matter to ask you the way that the paper was prepared which you give out in the very presence of this committee? How is that a personal matter?

The Witness—It is a personal matter to me. It is to show and make public all the facts in connection with our company. We have nothing to conceal. We have nothing to hide on our rates and on our business; and I want all the world to know the business we are engaged in.

Q. Was that paper prepared in your office? A. Now, I have refused to answer that question, Mr. Moss.

Mr. Moss—I understand that the committee is directing all of these questions to be answered?

The Chairman—The committee will so direct.

Q. Was it prepared for the purpose of being brought here as testimony? A. This is a personal paper. I bring it personally. You haven't requested it and I will not reply.

Q. Was it prepared for the purpose of being used in your testimony to-day? A. It is a personal matter; no sir.

Q. It was not? A. I have used no part of that testimony to-day.

Q. Was it prepared for the purpose of being used in this committee room to-day? A. I should have, if you had referred to the amount of business we had done in comparison with the other companies. I should have brought out that statement which you all will see, showing the amount of business; but your neglect to ask me the question ought not to be any reason for my producing my papers.

By the Chairman:

Q. Does this paper also state the amount of commissions you have received? A. No, sir; it does not; nor what Mr. Platt and his sons got. You haven't got that in there either.

Q. When you say you paid to Mr. Croker— A. (interrupting)—Nor how much Mr. Platt receives; no sir.

By Mr. Moss:

Q. Does that paper show anything about the commissions you have received? A. I have already replied to Mr. Mazet, the chairman.

The Chairman—He stated it does not.

By the Chairman:

Q. Does it show the amount of the earnings of the company? A. It shows the earnings—it simply shows the amount of business they have done in connection with the public departments.

Q. It does not show the amount of dividends that have been earned by your company? A. No, sir; nor any of the companies.

Q. Does it show the amount you have received as compensation, either in salary or commissions or otherwise? A. No, sir.

Q. It does not? A. No, sir.

Q. That is also a personal matter which you decline to state? A. Yes, sir.

By Mr. Moss:

Q. Did you read that paper over before you brought it here? A. I glanced over it.

Q. Did you read it over? A. I said I glanced over it.

Q. Did you know every word in it before you brought it here? A. No, sir.

Q. How do you know then that it is true? A. I can't remember every word in every statement that I make.

Q. You said you did not read every word of it? A. I said I glanced over it. That meant I read it.

Q. You do not make any distinction between glancing and reading? A. Oh, yes, I do. When I glance over a thing I go over it quickly, and when I read it I take my time.

Mr. Moss—Will the gentlemen kindly hand that paper—

Mr. Davis (representative of the Associated Press)—I have it, and the paper is in my office and probably half way out.

Mr. Moss—Is it important to your paper?

Mr. Davis—Yes, sir.

Mr. Moss—What paper do you represent?

Mr. Davis—The Associated Press.

Mr. Moss—This is Mr. Davis?

Mr. Davis—Yes, sir.

Mr. Moss—Mr. Davis states that it has gone out to the office of the Associated Press. Where is that?

Mr. Davis—One Hundred and ninety-five Broadway.

Mr. Moss—I wish you would send instructions to have the identical paper preserved.

Mr. Davis—That is always done and all original manuscript is returned to the man who furnishes it.

Mr. Moss—I wish you would direct Mr. Davis to return that paper to your custody.

The Chairman—I direct you so.

Mr. Davis—I cannot do it unless I have the authority of the Associated Press.

Mr. Moss—We will direct the Associated Press, through you, and if the Associated Press suppresses that paper they will do more than I think they will, Mr. Davis.

The Witness—There is nothing in it to suppress.

Q. Is that paper in your handwriting? A. No, sir.

Q. Is that a personal matter? A. It is not in my handwriting.

Q. Whose handwriting is it in? A. I won't state anything more about that.

Q. You decline to state whose handwriting it is in? A. Yes, sir.

Q. Is it in the handwriting of any one that you know? A. I decline to state anything further about that paper now.

Mr. Moss—I think we might as well give you a recess.

Mr. Fallows—I would like to have you ask the question whether or not he admitted squarely on the stand, swearing to the truth of it.

Q. I think he testified to that. Did you here on the stand swear to the truth of the statements in that paper, which you handed to the gentlemen of the press? A. To the best of my knowledge and belief. I will be responsible for the statement that it is true; but to the best of my knowledge and belief it is true.

Q. Will you swear positively that it is true? A. I have made my statement.

Q. You will not swear it is true? A. I have stated to the best of my knowledge and belief.



By the Chairman:

Q. That is the best you are willing to do? A. Yes, sir.

By Mr. Moss:

Q. You understand that it is not a positive statement? A. I understand. May I go for the day?

Mr. Moss—Yes.

EDWARD C. SHEEHY, being duly sworn, testified as follows:

Direct examination by Mr. Moss:

Q. Edward Sheehy is your name, I believe, Mr. Commissioner?

A. Yes, sir.

Q. We sent for some books. Have you brought them? A. I have.

Q. Where are they? A. If you will call Mr. Frank Bell, our chief clerk.

Mr. Moss—Mr. Frank Bell will please bring up the books.

Mr. Moss (after Mr. Bell had explained the method of keeping the books to Mr. Moss)—I think Mr. Bell had better be the witness.

The Witness—Well, Mr. Bell understands it. He has been there for years.

FRANK A. BELL, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am employed in the department of taxes and assessments. I came here this morning with Mr. Sheehy. I brought the tax books of the city of New York with me. I presume I was substituted in place of Mr. Sheehy because I have a more intimate knowledge of the tax books than Mr. Sheehy. I am here now at the request of counsel to this committee to testify to the value of Richard Croker's house on the books.

Q. I show you the annual record of the assessed valuation of real estate of the borough of Manhattan, New York city, section 5, volume 3, blocks 1374 to 1433, map 3, 1898; and turn to the page entitled block 1389, between Fifth and Park avenues, between Seventy-fourth and Seventy-fifth streets, and I ask you if you find there a division entitled "North side of Seventy-fourth street, Fifth to Madison avenue"? A. I do.

Q. And the first line of that I will read: "Robertson Trowbridge, 50 by 27.2, size of lot; size of house, 40 by 27.2; stories high, 4; houses on lot, 1; street number, 3; lot number, 5; \$28,000." What is that \$28,000? A. That was the assessed valuation for that year, 1898, and upon the books that stood for that year, for the purposes of taxation. That was not reduced that year.

Q. The next is Richard Croker, size of lot, 25 by 102.2; size of house, 25 by 57; extension, 2; is that extension? A. Two story extension.

Q. Four stories high, one house on lot, street number, 5; lot number, 7; \$45,000 in black figures. What did that show? A. That was the assessment as it stood on the opening of the books on the second Monday of January.

Q. Now, there is a red line drawn through that \$45,000, and opposite it is written \$40,000 in red ink. What does that mean? A. That means, as indicated, the correct amount.

Q. And opposite the correct amount of \$40,000 is written "By Commissioners"? A. Yes, sir.

Q. What does that mean? A. That they did it. The other is the work of the deputy.

Q. There is next to that Mary O. Maxwell. First I will say, the original black figures, \$45,000, were the work of the deputies, were they? A. Yes, sir.

Q. And the \$40,000 in red ink is the work of the commissioners? A. Yes, sir.

Q. That \$45,000 was the judgment of the deputy who examined the property and made that valuation for taxation, was it? A. Yes, sir.

Q. Now, after the entry of Richard Croker is Mary O. Maxwell; size of lot, 25 by 102.2; size of house, 25 by 57; extension, 2; stories high, 4; houses on lot, 1; street number, 7; lot number, 8; \$43,000 in black ink and \$40,000 in red ink? A. Yes, sir.

Q. That means that the deputy originally assessed at \$43,000, but the commissioners changed it to \$40,000, does it? A. That is right.

Q. Then the next house, Henry O. Barbey; size of lot, 20 by 102.2; size of house, 20 by 55; extension, three story, 20 by 12; stories high, 4; houses on lot, 1; street number, 11; lot number, 9; \$23,000 in black ink, the work of the deputy? A. Yes, sir.

Q. And \$20,000, the work of the commissioners? A. Yes, sir.

Q. The reduced amount? A. The correct amount.

Q. There are three houses adjoining each other, which were reduced by the commissioners, are there? A. Yes, sir.

Q. There are forty-one pieces of property on this page of the book, are there not? A. About; yes, sir.

Q. And those three are the only corrected figures upon that page, out of the forty-one houses, are they not? A. Yes, sir.

Q. In the case of Mr. Croker the house was reduced in taxable valuation from \$45,000 to \$40,000; the adjoining house of Mrs. Maxwell, \$43,000 to \$40,000; and the next house of Mr. Barbey's, from \$23,000 to \$20,000? A. Yes, sir.

Q. There are opposite all of these figures pencil figures. What are they? A. They are memorandums of the changes made in 1899 on the properties opposite which they stand.

Q. And do they represent all of the changes that were made? A. Yes, sir.

Q. I notice that in the case of Robertson Trowbridge, which we have read, the figures for 1899 are \$30,000, which is \$2,000 more than the assessed valuation originally for 1898? A. That is right.

Q. In the case of Richard Croker, I notice that the valuation for 1899 is \$44,000? A. Yes, sir.

Q. Which is \$4,000 more than the corrected figures of last year? A. Yes, sir.

Q. But \$1,000 less than the value that was originally assessed for last year? A. That is right.

Q. In the case of the Maxwell property, the corrected figures are \$44,000, exactly the same as Mr. Croker's? A. Yes, sir.

Q. In the case of Mr. Barbey, the figures for 1899 are \$24,000, which is in the same ratio practically as the other houses? A. An increase.

Q. An increase in the same ratio? A. Yes, sir; all of the other houses are increased in these proportions: Street number 13, from \$20,000 to \$22,500; street No. 15 the same; 17 the same; 19 the same; 21 the same; 23 is increased from \$28,000 to \$31,000; 25 is increased from \$38,000 to \$42,000; unknown, No. 27 from \$28,000 to \$31,000; No. 29 is increased from \$38,000 to \$42,000. Upon the avenue of the same block, lot No. 1, Sarah L. Keyes, is increased from \$100,000 to \$120,000; No. 931 Fifth avenue is increased from \$60,000 to \$70,000; No. 932 Fifth avenue from \$80,000 to \$95,000; No. 933 Fifth avenue from \$75,000 to \$95,000; No. 934 Fifth avenue from \$125,000 to \$150,000; and lot No. 69 from \$100,000 to \$120,000.

Q. Do you know why the ratio of increase is so much less on the Fifth avenue fronts than on the Seventy-fourth street side? A. It is the judgment of the deputy.

Q. In that case there have been no corrections. A. No.

Q. And on this page the only corrections are in the case of Mr. Croker's house and the two houses next to it? A. Yes, sir.

Q. After the deputy made these valuations of \$45,000, \$43,000 and \$23,000 in the case of those three houses, did he recommend a reduction? A. Yes, sir, in part.

Q. Who was the deputy? A. Robert Miller.

Q. What reason did he give for recommending a reduction in the case of Mr. Croker's house and the two next houses? A. My recollection is that his report was that upon a subsequent examination the extension which had been recently erected was not as good as the one on the adjacent house.

Q. As the one on the adjacent house? A. Yes, sir.



Q. But the one on the adjacent house that had the extension was also reduced? A. Yes, sir.

Q. In the same proportion? A. Yes, sir.

Q. How did that, then, make a means of comparison, when they were both reduced? A. I think the reason of that was that Mr. Croker's house faced on the back yard of the Fifth avenue lots; what we call a back house or lot. Not as desirable as the next house.

Q. Who brought the deputy's attention to these matters? Was there a petition? A. It was done by application.

Q. There was an application for a reduction? A. Yes, sir.

Q. Did the owners of each of these three houses apply? A. I think Mr. Maxwell and Mr. Croker applied, and then the commissioners, to equalize, made the other one, which is a common occurrence.

Q. Then there was no application on the third house, but in order to equalize it, as you put it, the third house was reduced without a petition? A. Yes, sir. That is a common action of the commissioners. If they find justice in an application, they will reduce the house of the applicant and an adjacent house of a similar nature.

Q. It would not appear right to simply reduce Mr. Croker's valuation, and not reduce the valuations next door, would it? If there was a reason for reducing Mr. Croker's valuation it would be necessary, in common decency, to reduce the adjoining house, would it not? A. If it required it.

Q. The same considerations applying, it would be necessary to do it, would it not? A. Yes, sir.

Q. Certainly? A. Certainly.

Q. So that we have it that while Mr. Croker's valuation to-day is \$4,000 more than his valuation last year, it is still \$1,000 less than the original valuation last year? A. Yes, sir.

Q. And the only corrections on this whole page are the corrections made in the case of Mr. Croker's house, and the two houses adjoining? A. That is right.

By Mr. Hoffman:

Q. I would like to ask a few questions. Who made this assessment? What deputy? A. Robert W. Miller.

Q. When was he appointed? A. I think he was appointed three years ago.

Q. Under the administration of the preceding tax commissioners? A. Yes, sir.

Q. Who was the president of the tax commissioners? A. President Barker. At the time of his appointment, I think.

Q. That does not make any difference, however. This man Miller has since been removed, has he not? A. Yes, sir.

Q. Now, where is the Trowbridge property located? A. The Trowbridge property is the first property east of Fifth avenue, and between the corner and Mr. Croker.

Q. Has the property that you have referred to on Fifth avenue a higher valuation placed upon it? A. Yes, sir.

Q. All along the line of Fifth avenue? A. Yes, sir.

Q. Now, as a matter of fact, I ask you whether or not there is any difference in the valuation placed upon the property owned by Mr. Croker and Mr. Trowbridge?

The Witness—Any difference in valuation?

Mr. Hoffman—Yes.

A. Why, the properties were of very different value. Of course the amounts are very different.

Q. How did you come to fix the valuation of the Trowbridge property at \$30,000—was it fixed? A. I think \$30,000, for this year.

Q. How did you come to fix it at that figure? A. That is the work of the deputy.

By the Chairman:

Q. You did not fix that figure? A. I do not fix the valuations.

By Mr. Hoffman:

Q. What deputy? A. The deputy for this year was Mr. Englehart.

Q. The deputy for last year? A. Mr. Robert Miller.

Q. Upon what theory is the valuation of property fixed? A. Value of the lot.

Q. For the purposes of taxation? A. The value of the lot, with the value of the house added to it.

Q. And was there any difference, as a matter of fact, in respect to the valuations placed upon the different pieces of property adjoining Mr. Croker? Was there any favoritism, in other words? A. I don't think so.

By Mr. Moss:

Q. You say that Mr. Miller has been removed. Why was he removed? A. That I don't know. That is the judgment of the commissioners.

Q. The commissioners removed him, did they? A. The commissioners.

Q. How long had he been there? A. Two years, I think.

Q. Two years? A. I think so. It might have been three.

Q. Have you heard of any charges against him? A. No, sir.

Q. Were any charges made against him? A. Not that I heard. They might have had some reasons.

Q. Was he tried? A. I don't think so.

Q. Mr. Miller is the gentleman who valued Mr. Croker's property originally at \$45,000, is he not? A. Yes, sir.

Q. And the gentleman whose valuation had to be reduced, is he not? A. Yes, sir.

Q. And he did all that before he was removed, did he not? A. Yes, sir.

Q. And you have never known of any complaint against him, have you? A. No, sir; I didn't hear of any complaint.

Q. Nor any of incompetency, did you? A. I did not hear of any. He recommended the decrease on that house, yes.

Q. He recommended the decrease afterwards? A. Yes, sir.

Q. After certain things had been called to his attention? A. He went and examined the house.

Q. I think this is worth spending a few minutes upon. These pages are practically the same in size and in contents, are they not? A. Well, they vary according to the block that they represent.

Q. Each page represents a block, does it? A. Yes, sir.

Q. You mean the page, or the double page? A. The double page.

Q. The double page represents a block? A. Yes, sir, sometimes the double page represents what you would call two blocks, sometimes. Take east of Lexington and west of Lexington, for instance.

Q. Is it not an unusual thing, or a comparatively infrequent thing for these valuations to be changed from the original figure? A. No, sir, we change a good many every year, on application.

Q. Let us see. Here is the page for block 1,374. We do not find any change upon that block except these two, Nos. 635 Madison avenue, which was changed from \$180,000 to \$160,000 by the commissioners, and then brought up to \$200,000 for 1899? A. That is right.

Q. That is the Tuxedo building, Blessinger & Hecht? A. Yes, sir.

Q. The other one is the building of Abraham Nayer, No. 40 Sixtieth street, reduced from \$18,000 to \$17,500 by the commissioners, and then fixed at \$19,500 for 1899? A. Yes, sir, that is right.

Q. I must compliment you on your books. They show everything at a glance. Here is block 1,375, on which there seems to have been only one change? A. Yes, sir.

Q. That is of Louisa M. Gerry, lot 67, reduced from \$500,000 to \$480,000 by the commissioners? A. Yes, sir.

Q. And then fixed at \$550,000 for 1899? A. That is right.

Q. What is the ruling rate of increase of real estate for the year 1899? A. There is no ruling rate.

Q. Then you have not taken the values for 1898 and increased them by any regular system or proportion, have you? A. No, sir.



Q. And is it not a fact that the increases in the valuation for 1899 are of varying proportions? A. Yes, sir, decidedly.

Q. Decidedly so? A. Decidedly varying. Very varying.

Q. Were not the valuations of 1898 practically the same as the valuations of 1897? A. No, sir; the valuations of 1898 were about seventy millions of dollars more than the valuations of 1897.

Q. Were the increases by all manners of proportions in 1898, or were they not all increased in accordance with the general ratio, or nearly so? A. About forty millions of dollars of that was for new buildings, and about forty millions of dollars was for appreciation in different locations.

Q. On this page here I find that the Metropolitan club was assessed at \$800,000 in 1898 and remained at that figure for 1898, but it has been increased to \$950,000 for 1899? A. Yes, sir.

Q. One hundred and fifty thousand dollars added to the original \$800,000? A. That is right.

Q. That is a pretty heavy percentage of increase? A. No, sir, plenty of properties we doubled.

Q. Plenty of properties you doubled? A. Yes, sir.

Q. But what about the adjoining property of Louisa M. Gerry, which was originally at \$500,000, reduced to \$480,000, and then increased for this year to \$550,000, an increase of only \$70,000 on \$500,000? That is the adjoining property? A. Then the judgment of the deputy influenced the assessment.

Q. The judgment of the deputy, concurred in by the commissioners, of course? A. Certainly. If they had thought differently they might have changed it. You can appreciate that these amounts have not been adjudicated by the commissioners yet (pointing to some entries.)

Q. In block 1,376 we find only three changes, 805 Fifth avenue changed from \$58,000 to \$64,000; that was an increase from \$58,000 to \$64,000 for 1898, was it not? A. Yes, sir.

Q. Was that done on the petition of the owner of the property? A. That was an apportionment. That is a change in the area of the map. It says "apportioned."

Q. Apportioned by consent? A. That was an apportionment; a change in area.

Q. But what was it apportioned with? The adjoining property is not changed? A. That I could not tell without reference to the particular application.

Q. Let us see: No. 804 Fifth avenue is in the name of W. Emeline Roosevelt? A. Yes, sir.

Q. Sixty-five thousand dollars. Not changed; and fixed at \$75,000 for 1899? A. Yes, sir.

Q. The next number, 805, is in the name of Alfred Roosevelt, changed from \$58,000 to \$64,000 and then \$74,000 for 1899. How is that apportioned? A. I might give you some little light on it here. (Looking at another book.) The reason lot No. 71 was increased was because a part of the lot in the rear on East Sixty-second street was added to it in area.

Q. It was run down? How many feet? A. Twenty-five longer.

Q. And for that the valuation was increased \$6,000? A. Yes, sir. The same thing ought to have happened on——

Q. Why was that not done on 72, just above it? You see the change was just the same in both lots? A. I can't tell.

Q. That can't be explained on the books, can it? A. The valuation would probably explain it.

Q. Do you not see from the book that the first mentioned lot, Emeline Roosevelt, is twenty-five deeper than the lot of Alfred Roosevelt? A. Yes, sir; in the correction, they did not correct——

Q. The other correction on that block is No. 41 Sixty-first street, reduced from \$15,500 to \$14,000 and then increased for 1899 to \$16,500? A. Yes, sir.

Q. Now, you see, Mr. Bell, that here is a case where you reduced—that belongs to the Rev. G. L. Prentice. A. That is a clergyman's exemption.

Q. That is reduced by clergyman's exemption? A. He is entitled to \$1,500 reduction, by the law.

Q. But you have in your increase for 1899 raised that property above its original valuation in 1898? A. That is raised.

Q. Why was that not done in the case of Mr. Croker? A. That is the deputy's judgment of the value.

Q. Altogether a matter of judgment? A. Altogether a matter of judgment.

By Mr. Fallows:

Q. Is not that the commissioners' judgment? The commissioners in 1898 reduced it upon application, and how is it put back above the amount at which the commissioners had fixed it.

Mr. Clarke—The commissioners have not acted this year yet, the witness states, and I think it should go on the record. I do not think he said it loud enough to be heard—that these figures for 1899 are not yet absolutely fixed. They are subject to change.

The Witness—They are subject to correction until next month.

Q. Until the 30th of April? A. Until the 30th of May. The commissioners act until the 30th of May on these assessments.

By Mr. Moss:

Q. This is the deputy's work? A. This is the deputy's work.

Q. The only other correction on this block was that of James A. Roosevelt, reduced from \$22,000 to \$16,000 on an apportionment? A. That explains that.

Q. That explains the first one, does it? A. Yes, sir.

Q. In block 1377 there does not appear to be any alteration whatever? A. No, sir.

Q. We notice little things as we go along. Here is the house No. 24 Sixty-third street, which was assessed at \$130,000 in 1898, and on which the figure for 1899 is \$130,000? A. Yes, sir.

Q. Has not that \$130,000 been written over another figure? Look at it, please? A. It looks so.

Q. Has not that 130 been written over 150? A. It looks so.

Q. This house is called the Southerland, owned by Henry C. Miner. Can you tell me how it was that the rate of increase over 1898 is only \$10,000 upon the property valued at \$120,000? A. I suppose the deputy thought it was a proper increase.

Q. Here is the property at No. 810 Fifth avenue, that of Miss M. W. Bruce; the value was \$120,000 and then it was increased to \$140,000. That is an increase of \$20,000? A. Yes, sir.

Q. On the same valuation and in the same block? A. Yes, sir.

Q. But in this case of Mr. Miner's property, the increase on the same original valuation is only \$10,000. Can you explain that? A. Each deputy makes a particular valuation each year, and his judgment may vary from his own judgment of the previous year, or from the deputy who preceded him, in that respect.

Q. But in the case of Mr. Miner it is evident that somebody's judgment of \$150,000 has been cut to \$130,000? A. These are only the work of the examining clerk. This is only the work of the examining clerk after the book is made up. You have the official one there, which is in ink.

Q. Is not this matter of fixing valuations, very largely as it comes up, the judgment of the gentlemen in the tax office? A. Entirely.

Q. Entirely so? A. Yes, sir.

Q. And when a valuation is once fixed by the tax officers it is not an easy thing to change it, is it? A. The commissioners often change it.

Q. But after the commissioners have fixed it it is not an easy thing to change it in the court, is it? A. No, not easy.

Q. And there are very few cases where values once fixed by the commissioners are changed by the court? A. Extremely few.

Q. Do you not recognize that it is an exceedingly important function that is committed to the tax officers of a municipality, when they have this power of fixing valuations, which is so hard to disturb? A. It is one of the most important in the city.

Q. And should not be exercised arbitrarily and whimsically, should it? A. No, sir.

Q. Of course I do not mean to say or to imply that your testimony is a criticism upon the tax officers. I am only asking you



hypothetical questions, as a gentleman who has had experience in these matters? A. I am giving you my opinion.

Q. I am far from trying to put words of accusation in your mouth against your officials. Now, the next block 1378. There do not seem to have been any changes at all, do there? A. No, sir.

Mr. Fallows—Will you ask this; unless the petition is filed, the commissioners never pass upon a change. It is entirely arbitrary.

Q. Is it not a fact that the deputy is really the man who fixes the value, unless the property owner petitions for a review of that fixing? A. It is not absolutely so, every time, but it generally is so.

Q. So that in the first instance, and practically all over the city, the important man in the fixing of the values is the deputy. A. Undoubtedly.

Q. And in the great amount of business that the tax commissioners themselves have to do, it is hardly possible for them to go over these valuations, unless their attention is specially called to particular pieces? A. They do not pretend to.

Mr. Fallows—I would like to get at the proportion of changes.

Mr. Moss—That will appear in these changes. I am bringing that out in every block. Here in block 1379 is only one change, namely, H. Knickerbocker's property, 830 Fifth avenue, decreased from \$165,000 to \$140,000 by the commissioners.

The Witness—Yes, sir.

Q. And increased this year to \$165,000, which is the exact figure of the original valuation in 1898? A. Yes, sir. The buildings were destroyed, and the erection of a new one commenced.

Q. Yes. That is the only change on that block. In block 1380 there appear to have been no changes. I notice that the house No. 842 and 843 Fifth avenue, John Jacob Astor, valued in 1898 at \$500,000 is increased to \$600,000 for 1899. The next house,

Ellen R. Randall, No. 844 Fifth avenue, valued last year at \$70,000 is only increased to \$80,000 this year? A. That is right.

Q. In the one case, what is the proportion? A. Twenty per cent. on the first and fifteen per cent. on the second.

Q. In the first case the increase is about twenty per cent. and in the second it is about fifteen per cent.? A. Yes, sir.

Q. That is altogether a matter of judgment of the deputy, is it not? A. Yes, sir.

Q. And it was so fixed? A. Yes, sir.

By Mr. Hoffman:

Q. What does that depend upon in the valuation? A. It depends upon the judgment.

Q. Upon the size of the lot and the building upon it? A. Upon the size of the property and the improvements upon it.

Q. The deputy makes up his judgment from the size of the lot and the improvements upon it? A. Undoubtedly; yes, sir.

Q. And where the property is located? A. Yes.

Q. A corner property has a higher value than property inside? A. Undoubtedly.

Mr. Moss—Block 1381: There are no corrections at all. Block 1382, no corrections.

By the Chairman:

Q. I would like to ask one or two questions. Where no application is made for a reduction of the valuation, as I understand it, it is a very rare instance that any change is made from the figures fixed by the deputy? A. Very rare.

Q. What cases are there where there is any change made by the commissioners from those fixed by the deputy, other than where application is made by the owner? A. An error reported by the deputy or by myself to the commissioners, would be corrected. That would be one instance. Another would be an application filed by somebody, which would turn their attention to adjacent property, if they saw there was an error.

Q. How would such an error be disclosed? How would that be determined, as to whether there was an error in the valuation?

A. In the case of the application, a private owner will object by filing an application.

Q. I mean this: Suppose the owner files no application. The figures stand, as a rule, do they not? A. Yes, sir; they stand, as a rule.

Q. And the books there the changes that are made are all made on application, are they? A. Not all.

Q. What percentage or what proportion? A. Oh, the proportion of changes are infinitesimal.

Q. Less than one per cent., are they not, practically? A. Less than that. We had last year, 1100 applications filed, and we had 160,000 pieces in the city. On those applications, I do not know the exact number that were changed by the commissioners, but probably not fifteen per cent. of them.

Q. That is, out of this 1100— A. Fifteen per cent. might have been changed.

Q. So that unless the owner's attention is particularly called to it, the chances of his getting any other valuation than that placed upon it by the deputy is practically nil, is it not? A. Practically nil; yes, sir.

By Mr. Moss:

Q. I notice that in the next block, 1383, there are only two changes, one by the commissioners, and the other on account of the house being owned by a clergyman? A. That is right.

Q. In the next block, 1384, there are no changes? A. No changes.

Q. I notice that in the case of Davis Dows, 880 Fifth avenue, the value of \$290,000 in 1898 has been raised to \$340,000 for 1899? A. Yes, sir.

Q. And of H. R. Bishop, from \$225,000 to \$260,000? A. Yes, sir.

Q. Is that the same proportion of increase? A. No, sir.

Q. Is there any reason that you can think of to explain that difference? A. The last year or two have disclosed to real estate people that corners are much better appreciated than formerly, and naturally the increase on corners are greater than on inside property.

Q. The proportion of changes, as I have read them, sometimes two, sometimes one, and sometimes no change in a whole block, runs through this book in about the same way, does it not? A. I think so.

Q. Will you tell me any reason why there should have been this violent increase in taxable values between 1898 and 1899?

A. The charter provides that we must equalize all parts of the greater city. Upon examination, we found that Brooklyn was assessed at a very high proportion to what the property was selling for. The consequence was we had to bring Manhattan, Queens, Richmond and the Bronx up to that figure.

Q. It is not then based upon any notion that property itself has appreciated in any such proportion as these books show? A. No, sir; not at all. It is merely to equalize.

Q. And to that extent it is an arbitrary act, is it not? A. Directed by the charter.

Q. Exactly; an arbitrary act directed by somebody or some instrument, but, nevertheless, an arbitrary act? A. Yes, sir.

Q. And proceeding entirely upon the judgment or the impulse of, originally, the deputies—the deputy commissioners? A. No, sir. Directed by the commissioners.

Q. Directed by the commissioners? A. The deputies were directed by the commissioners to equalize the greater city.

Q. The deputy having charge of this book had nothing to do with the books over in Brooklyn, had he? A. He had to consider the whole valuation.

Q. I understand. But the deputy who had charge of fixing the values in this book here had no actual duty to perform upon the books of any block in Brooklyn, had he? A. No, sir.

Q. But he had to consider that? A. His attention was called to the very high rate at which Brooklyn was assessed.



Q. There are quite a number of deputies who worked upon the New York books? A. Yes, sir.

Q. And quite a number of deputies who worked upon the other books? A. Yes, sir.

Q. Do you mean to say that their work was harmonious? A. Intended to be; yes, sir. Tried to make it so.

Q. How was it controlled? How was it made harmonious? A. It was directed in a general way by the commissioners, and through my efforts, I tried to harmonize them.

Q. You did what you could to make it harmonious? A. Yes, sir; I called their attention to the nature of the assessments in different parts of the greater city, bringing them together and making them join hands over their boundary lines.

Q. With the best of intentions there are bound to be inequalities, and many of them? A. Sure; very large.

Q. And there is no doubt that is the case? A. Undoubtedly it is the case.

Q. But the important fact which seems to stand out in your testimony is that this important work of fixing the values is, after all, a matter of judgment, and for its correctness or incorrectness, must depend upon the character and the quality of mind of the men who have to fix the books? A. Entirely so.

By Mr. Fallows:

Q. The deputies are assigned to separate districts, are they? A. Yes, sir.

Q. Are they informed by the commissioners in each case what the total assessment for their particular district may be before they start out to make their appraisals? A. Oh, no.

Q. On what system do they equalize? A. Their attention is called to the sales of property and the assessed valuations of the same property in the various sections of the city, especially those that adjoin their district.

Q. Are they told in any direct or indirect manner to bring in a general increase of a certain percentage, over their entire district, over what it may have been before, in order to equalize with

Brooklyn? A. No, sir; we never give definite instructions of that kind.

Q. Are they told to bring in an increase or decrease of valuation? A. No, sir.

Q. I should like to have it explained a little more clearly how they do equalize? A. It is intimated to them.

By Mr. Moss:

Q. How, and by whom? A. I, frequently; by myself.

Q. What do you say to them? A. I frequently take a book and point to sales opposite a piece of property in the district. We keep a record of the sales. "Do you see how you have that assessed? Do you think that is a fair sale?" A. I take another man's district adjoining him and point to the sales there, and see how he has got it assessed, and ask him to investigate it.

Q. Well, there are many apparent inequalities in the valuations in these books, yet there appears to be in many instances a general ratio for similar property. Now, how is that attained, unless there is some direction over the deputies who make the valuation? Do you understand my question? A. I don't know that I do; I don't think I do, exactly.

Q. Are all valuations on lower Fifth avenue to-day—the increase of valuations, we will say—substantially in ratio with the increase in valuations in upper Fifth avenue? A. Do you mean the increase in valuations as they stand or the increase——

Q. The increase? A. The increase is not the same.

Q. Does it sustain any proportion at all? A. I think they were increased as much in one part of Fifth avenue as another.

Q. Exactly. To accomplish that purpose, and to have this increase for the individual piece of property, was there not some direction and some general oversight by somebody over the valuations that were to be fixed by the deputies? A. No, sir.

Q. How did they get that ratio? A. They got that ratio—well, there was no definite ratio; no man increased his district by a certain percentage. He was supposed to equalize each piece of property with other property in the city.

Q. Then is it the fact that each deputy must attend to his own district, and get what knowledge he can from other districts and keep himself straight in that way? A. He is supposed to; yes, sir.

Q. Then we have it, each deputy in his own district is independent? A. Yes, sir.

Q. That explains what I was trying to get at. A. And powerful.

Q. Independent and powerful? A. Yes, sir.

Q. And that deputy, not in pursuance of any general system, but on account of his own knowledge and what comes to him, fixes the values in his districts? A. He does.

Q. Is there no general control, no oversight for the purpose of harmonizing these districts? A. Yes, sir; there is a general control.

Q. What is that oversight? A. Just as I stated a moment ago, that the commissioners direct them to equalize with other parts of the city.

Q. But they must do that themselves? A. Yes, sir.

Q. The commissioners do not know whether they do it; they tell them to do it? A. No, they can't know individually. It is too much.

Q. They simply tell them to equalize it; but when they have made the valuations, then they stand upon the individual judgment of those deputies, subject only to correction by the commissioners? A. Yes, sir.

Q. And the only way the commissioners can control those acts of their deputies, after they have made valuations, is through the appeals of property owners? A. I might explain probably a little bit there. May I explain it?

The Chairman—Yes.

The Witness—These deputies in making changes in their districts make report weekly to me. If any large or important changes, or any changes which would be pointed to particularly are being made, they are at once investigated and the deputy called upon to explain why and to show his reasons for such changes.

By Mr. Moss:

Q. Does the deputy start out on his year's work with the last year's book as the basis? A. Yes, sir.

Q. And he is expected to go by the last year's book, unless there be some circumstances that have changed the values of the property? A. I don't think he is expected to consider the last year's assessments at all.

Q. Does he not, as a matter of fact? A. I think they do.

Q. They start out from that as a basis? A. Yes, sir.

Q. And if the valuations between different sections of the city have been unequal in the previous book, they are likely to be repeated, are they not? A. Yes, sir; they may be.

Q. Unless the commissioners' attention is particularly called to it? A. Yes, sir.

Q. Have you not found cases where the district of one deputy presents a larger ratio of valuation towards the real value of the property than the district of some other deputy? A. Well, in some cases; yes, sir; small areas.

Q. So we come back to the question, it is of the utmost consequence to the people of New York that the deputy tax commissioners shall be honest men and men of ability? A. Undoubtedly.

Q. And of course, if they are under any kind of control other than that of an enlightened and honest judgment, it is bound to be felt in the taxes of the taxpayers, surely? A. Yes, sir.

Q. Now, will you tell me another thing? Do you have anything to do with personal assessments? A. No, sir.

Q. That is out of your line? A. Yes, sir; I want nothing to do with them either.

By Mr. O'Sullivan:

Q. I would like to ask a question. You have been a number of years in the tax department, have you not? A. About fourteen years.

Q. And you were in your present position during the last Republican administration? A. I have been in my present position during the whole of that fourteen years.



Q. Mr. Barker was the president of the tax board in the preceding administration, was he not? A. He was; yes, sir.

Q. Was it not Mr. Barker's policy to assess property, real property, on a basis of sixty per cent.? Was not that what he undertook to do? A. I don't think so.

Q. Have you never heard it mentioned by Mr. Barker? A. No, sir.

Q. On what percentage basis did he base his assessment? A. The commissioners, or the president, do not assess the property at all.

Mr. O'Sullivan—I am talking about his office.

The Witness—Well, the deputy swears that he assesses it for what it will sell for, and he does not recognize any percentage of value.

Q. He instructs the deputies—I mean the tax commissioners instruct the deputies—before they are sent out to make valuations? A. Generally do; yes, sir.

Q. And the deputy is supposed to give a full description of the property? A. Yes, sir.

Q. Whether it be a wharf or house, or what it happens to be? A. Yes, sir.

Q. And if the property should be consumed by fire between two epochs of the deputy—that is, between the two assessments he would make—it would materially make a difference in the assessment? A. Sure.

Q. And if a couple of stories had been added to a building it would make a difference in the assessment? A. Certainly.

Q. You know as a matter of fact that the law is mandatory and says that you shall assess real property at 100 per cent. of its value, do you not? A. It does not say that, that I know of.

Q. What does the law say on that? A. It says that the deputy shall assess the property for what it will sell under ordinary circumstances.

Q. And that you would consider 100 per cent. of its value, would you not, at a given time? A. I do not construe it that way.

Q. Well, for its value, market value—that is it? A. No, I do not put it that way.

Q. What does the law say he shall regulate its value at? I wish you had the tax law here. A. The law simply says—it reads that he shall assess it for what under ordinary circumstances in his judgment it will sell.

Q. That is the rule to go by? A. Yes, sir.

Q. And the deputy, in assessing, considers he is assessing it at its full, fair value, does he not? Under the present administration, I mean? A. I do not think so.

Q. It is not its value—fair value? A. I don't think so.

Q. It is below it? A. Yes, sir.

Q. How much below it? A. I don't think there is any percentage at which you can go below it, or say that it is below it. It is what it will sell for under ordinary circumstances.

Q. Do you not know as a matter of fact that the discrimination under Mr. Barker was so great that it was alleged to range from twenty per cent. in the case of favorite individuals, to eighty per cent. and ninety per cent. in the case of unfavored individuals? A. No, sir.

Q. There were no such allegations made? A. I did not hear of them.

Q. Do you know as a matter of fact I brought Mr. Barker and his tax board before the grand jury on that charge?

Mr. Moss—Supposing Mr. O'Sullivan testifies to that. The witness says he does not know.

Mr. O'Sullivan—I am asking this witness, who has been fourteen years in office. He knows the circumstances of his own office.

A. I heard of it.

D. Do you know whether or not Mr. Barker and the preceding tax board was taken before the grand jury? A. I heard so.

Q. Is that all you know of it? A. I saw your paper.

Q. Do you know whether or not the grand jury considered the charges I made? A. I heard they did.

Q. And that they brought in a presentment finding that the charges I made were true? A. I did not hear that.

Q. If deputy tax commissioners obey the law in getting somewhere near the full value of the property, do you consider that an arbitrary act? If they obey the instructions they get from the tax commissioners themselves, as to the value of property about to be assessed—real property I am speaking of—do you consider that if they follow the mandatory part of the law, which tells them to put a fair or full market value on it, they are doing an arbitrary act? A. Yes, sir; because the value of that property is a matter of judgment with them. They have got to judge, and their judgment is an arbitrary matter.

Q. Is not their judgment guided by the sales of property, as you said you called their attention to? A. The sales are very misleading. They have got to judge of the authenticity of those sales.

Q. And yet you point them out to deputies to guide by, do you not? A. I point them out and ask them whether they believe it, and take it into consideration.

Q. Are not deputies real estate experts? A. Generally.

Q. Mostly? A. Yes, sir.

Q. And yet there are incompetent deputies? A. Yes, sir.

Q. But in case a deputy is incompetent the complaint does not come before you, of his incompetency, does it? A. I generally complain of him to the commissioners.

Q. You? A. Yes, sir. Frequently do.

By Mr. Moss:

Q. Here on block 1391 are three pieces of property, east side of Fifth avenue, Seventy-sixth to Seventy-seventh streets, lots numbered 74, 73 and 72. Their total assessed value for 1898 was \$89,000. Just look at that, please. Eighty-nine thousand dollars was the total assessed value of those three pieces, was it not? A. Yes, sir.

Q. Do you notice that the assessment for 1899 is only \$85,000, \$4,000 less than it was in 1898? A. Yes, sir.

Q. Those two pieces of property are put down in the name of Edward V. Loew and Isaac Untermeyer? A. Yes, sir.

Q. Do you know of any reason why those three lots should have been reduced for 1899? A. Yes, sir.

Q. What was the reason? A. The reason is that the size of the lots was changed from seventy-five feet to sixty-two feet frontage.

Q. What has become of the other feet? Were they added to the corner? A. Added to 71.

Q. Now, let us see about 71. Seventy-one was increased from \$45,000 to \$90,000. Is that the explanation of that? A. Yes, sir; that is the explanation of it.

#### AFTER RECESS, 2.15 P. M.

JOHN F. ROACHE, being duly sworn, testified as follows:

Examined by Mr. Moss:

I live in Brooklyn, 328 Dean street. I am connected with a Philadelphia coal firm by the name of Tucker and Company. I have occasionally endeavored to sell coal for them. I did interview the manager of an electric light company in Harlem, in an endeavor to sell some coal for Mr. Tucker. I don't know the amount I tried to place with this gentleman. It was a large order that I was looking for, maybe 10,000 tons, somewhere between 5,000 and 10,000, around there. I can't say that he was favorably inclined. He asked me for a price, what we could do there; what I could do there. I gave him prices, but he did not finally purchase it from the firm that I represented. There was a reason stated to me why a preference was given to the other concern. The reason was their price was lower. That was the only reason that was stated.

Q. What was the name of the gentleman to whom you tried to sell the coal?



The Witness—Am I obliged to answer that?

Mr. Moss—Yes.

The Witness—Is that right, Mr. Chairman?

Mr. Chairman—Yes.

A. Edward Maher, of the North River Electric Light Company, I think. It was in January some time. I would not say positively, though. In the winter time. It was in the winter, anyway. I still say that I was not told about a communication from any one else recommending a different concern.

ABRAHAM HIMMELWRIGHT, being recalled and further examined, testified as follows:

Examined by Mr. Moss:

Q. Does the treasurer of the Roebling Construction Company attend the office in Liberty street regularly, daily? A. I think that is a private business matter.

Mr. Moss—I am sorry to see a man like you, and a man in ordinary and respectable business, adopting that line of answer. I am afraid that that expression will be used by the people for ten or twenty years to come, indicating a certain kind of transactions, which I do not believe that you are mixed up in.

The Witness—I am glad you make yourself clear on that point.

Mr. Moss—I do not want to leave you in the position of declining to answer those important questions by saying it is private business; for thus far that answer has occurred in such places as would warrant us in believing that while the business may be private it might also have a public aspect in another tribunal than this.

The Witness—Mr. Chairman, is all this discussion which the counsel and this committee is now going into pertinent to this inquiry?

The Chairman—I think it is very pertinent. I think you should answer the question. You understand that in this proceeding

you have no privilege of that kind. You should answer these questions.

The Witness—May I make a statement?

The Chairman—No. Proceed, Mr. Moss.

Q. Answer the question. The question is, does Mr. Briggs, the treasurer of the company, attend at the company's office daily?

(The witness made an answer which the chairman ordered to be stricken from the record.)

Q. I have asked a question which is simply whether the treasurer of the company, of which you are the manager, attends his business office daily; the answer would not tend to degrade you, would it? A. That is not the question.

Q. Would it? A. It is not pertinent to this—

Q. Would it tend to degrade you? A. It is useless to go on in this line.

Q. No; would it tend to degrade you?

The Chairman—Answer that question.

The Witness—I refuse to answer on the ground that it is not pertinent to this inquiry.

Mr. Moss—Direct him, please.

The Chairman—You are not the judge of whether that is pertinent or not. The committee is the judge of that, and the committee directs you to answer the question.

The Witness—I, who know the facts alone, am in a position to judge of that matter more correctly than the committee.

Q. Then it would tend to degrade you, would it? A. Not necessarily.

Q. Of course, if it tends to degrade you, I will not ask you the question. Would it? A. Not necessarily.

Q. Would it perhaps tend to degrade you? A. If you wish to place that construction, and it is your belief that it might or that it was, you can believe what you want.

The Chairman—What is your belief?

Q. If it would tend in any way to degrade you, of course I will not press the question? A. That is useless fencing; absolutely useless.

Mr. Moss—Then stop fencing.

The Witness—You are the one.

Q. What is it that has happened to this large and responsible and hitherto honorable concern, whose name is linked with the Brooklyn Bridge, that makes you unwilling to say whether the treasurer goes to his office every day?

The Witness—May I make a statement?

The Chairman—No, sir; you will answer the question.

The Witness—I have a right to make a statement and either you will let me make the statement or I will refuse to answer the question.

The Chairman—You will refuse to answer?

The Witness—Yes, sir.

Q. Would it tend to convict you of a crime if you answer the question? A. All these things are not pertinent to this inquiry.

Mr. Moss—Will you please direct the witness?

The Chairman—You are directed to answer the question.

The Witness—Then repeat the question.

Q. Would it tend to convict you of a crime, if you answer the question? A. If you can show that that is pertinent to this inquiry, I will answer it.

Mr. Moss—That is not an answer to my question.

The Witness—That is the only answer I will give you.

Q. Do you refuse to answer that question? Would it tend to convict you of a crime?

The Chairman—The witness is directed to answer the question.

Mr. Moss—It is a most remarkable thing. I want you to see it yourself and the witness to see it——

The Witness—Allow me to make a statement.

Mr. Moss—I am speaking. It is a most remarkable thing when the influences that have been talked about so long come into that respectable concern, so that its manager is unwilling to disclose the fact whether or not the treasurer attends his office daily. It is time that the community should understand what these peculiar things are that have been brought into town, that so paralyzes the honorable actions of honorable people.

The Witness—This is all foolish by-play.

Mr. Moss—Stop the by-play.

The Witness—You are the one that is doing it.

The Chairman—You can avoid it all by answering the question.

Q. Will you answer it all—either or any of those questions—that I have put to you? A. As a representative of a concern that has been long—that is doing a legitimate business in New York—I don't believe that this committee has the right to hold me up, the way you have been doing, on our private matters. That is the stand I shall take in all this testimony to-day. If you will ask me questions that relate to the city departments, on which questions you alone have any right, under your legislative power, to act, I will answer them. My own private business matters are as sacred to me as yours.

Q. Is the fact whether or not Mr. Briggs attends the office of the company your private business? A. It is the private business of this company.

Q. Is not your company putting in applications to one of the city departments, and in particular to the board of examiners, for the doing of public work? A. No public work so far.

Q. Do you mean to say that no petitions have been presented within the last month, before the board of examiners?



The Witness—Do you mean now, as I understand it—

Q. I mean just what I say. Has your concern put in any petitions before the board of examiners? A. Let me ask a question, please.

Mr. Moss—Answer that question.

The Witness—By public buildings—

Q. I have not said *public* at all. Have you put in any petitions before that branch of our government called the board of examiners, within the past month? A. I would like to call for the original reading of your question.

Mr. Moss—I ask you a question now?

A. I would like it repeated, according to the original question.

Q. I ask you this question. Never mind about any original questions. Has your concern within the past month put any petitions before the board of examiners of the department of the city government? A. You wish me to disregard the first question?

Mr. Moss—I want you to answer that question.

The Witness—The last question I will answer, yes. But the first question I think not.

Mr. Moss—Never mind about the first question.

The Witness—Mr. Chairman—

The Chairman—You have answered the question. We will get along all right.

The Witness—What question am I being subject to?

Mr. Moss—You are asked a fair question and we want a fair answer to it.

The Witness—That is remarkable.

Mr. Moss—If you do not look out, the people will suspect you of doing something you are ashamed of.

The Witness—Let it suspect, the same as this committee is suspected.

Mr. Moss—When people come in that way and refuse to discuss matters which are perfectly innocuous, they put you under suspicion.

The Witness—I am honest until I am proved dishonest.

Mr. Moss—You are honest until you are proved dishonest, of course, in a criminal court.

The Witness—In any court.

Mr. Moss—And that is the position of every rascal against whom the proof is not in the hands of the public authorities, is it not?

The Witness—I protest, Mr. Chairman, against any insinuations against my character.

The Chairman—He has not said anything against your character. He is asking you a question.

Q. Is not that the position of every rascal against whom the authorities have not got the convicting proof? That he is innocent until he is proved guilty? A. That is not a question that I consider proper to be put to me.

Mr. Moss—I will not force you to answer that question.

The Witness—You do very well.

Mr. Moss—It will answer itself. Your silence answers it.

The Witness—Construe it that way.

Mr. Moss—I am sorry that you put yourself in that position because I think you would not do it by yourself. Who has instructed you to come here and adopt this line of refusal to answer what you deem to be personal inquiries? Who advised you to do that?

The Witness—That is a private business matter.

Q. Did Mr. Roebing advise you to do that? A. The same answer.

Q. He did not, did he? A. I refuse to answer that question.

Q. Did Mr. McCann advise you to do that? A. I refuse to answer the question.

Q. You claim to be representing your concern, in taking that position. If you are not representing your concern, you certainly are not entitled to any privilege. Have your employers directed you to take that position here? A. That is not pertinent to this inquiry. It is foolish to keep on in this line of inquiry. It is taking time.

Mr. Moss—You may find out it is not foolish.

The Witness—Not at all. I am not afraid.

The Chairman—Repeat the question.

Q. (repeated) You claim to be representing your concern, in taking that position. If you are not representing your concern, you certainly are not entitled to any privilege. Have your employers directed you to take that position here?

The Chairman—The committee directs you to answer the question.

The Witness—There is a preliminary statement in that question that almost precludes its being answered.

Q. Have your employers directed you to take the attitude here that you have taken, refusing to answer questions? A. I refuse to answer that.

Q. You refuse to answer that? A. I do.

Q. Have not members of the city government directed you to take the position which you are occupying now, when you refuse to answer questions? A. That is a proper question. Will you please repeat it?

Mr. Moss—Thank you. I am glad to have attacked your intelligence and got a concurrent vote.

The Witness—I protest against these side remarks. If I am not allowed to make any remarks, I claim that the counsel of this committee is not.

Mr. Moss—Go on. Look at the question and answer it.

The Witness—I ask the question to be repeated.

Q. (repeated) Have not the members of the city government directed you to take the position which you are occupying now, when you refuse to answer questions? A. No, sir.

Q. Have not members of the city government requested that you take the position, in refusing to answer questions, that you do to-day? A. No, sir.

Q. Have they suggested it? A. No, sir.

Q. Have you received such a suggestion or advice or request or direction from counsel of the city departments, or any such counsel?

The Witness—Will you separate that into two parts—your last remark; your last part.

Mr. Moss—From counsel of the city government?

The Witness—No, sir.

Q. From counsel of any department of the city government? A. No, sir.

Q. Why did you desire that question divided, when your answer is no both times? A. Because you said *any* counsel.

Q. Then you have been advised by some counsel to take this position, have you? A. That is a private matter.

Mr. Moss—I imagine that—no, I will not trouble you with my imagination.

The Witness—Thank you.

Q. Has your concern done any figuring upon city work, school work, or any kind of city work during the last year? A. Yes, sir.

Q. And has it consulted, or have you or any member of it consulted Mr. McCann or Mr. Grady, with reference to any city work? A. No, sir.

Q. Have you looked for the books of account of the company to show whether or not \$17,000 was received from Mr. Frank Croker for his stock? Have you? A. That is a private matter.



Mr. Moss—I simply ask you if you have looked.

The Witness—That is a private matter. I understood your question.

The Chairman—The committee will direct you to answer the question.

Q. Has not Mr. Briggs, the treasurer of the company, kept away from the company's office for the purpose of evading the service of a subpoena to require his presence here? Is that a private matter? A. Give me a moment to think.

Q. You have had your moment; answer the question. Why should you have a moment to think on that, if it is an honest matter? A. I am simply considering my own rights, as a business man, and the right of your committee to inquire into my business matters. That is all. I consider that a private matter.

Q. That is your decision, after three minutes of consideration, is it? A. Yes, sir.

Q. Which we have accorded to you. Now, you will answer the question, will you? A. I have answered it.

Q. You will not answer it? You understand that you are refusing to answer a question whether a member of your concern has been evading the service of the subpoena issued by this committee? Do you understand it? Has your mighty—your intellect grasped all that there is in that question? I think you have taken three minutes on that. A. That is a private matter.

Q. You decline to answer that, do you? A. Yes, sir.

Mr. Moss—Will you direct the witness to answer.

The Chairman—The committee directs you to answer the question.

Mr. Hoffman—Do you direct him to answer a question which calls for the operation of someone else's mind?

The Chairman—No.

Mr. Hoffman—That is what this question implies.

Mr. Moss—He declines to answer the question simply as a matter of private business.

Mr. Hoffman—It calls for the operation of somebody else's mind.

Mr. Moss—That is a suggestion to the witness.

The Chairman—He has not said so. He stated that it was a matter of private business and that was the reason for declining to answer, and the committee directs him to answer the question.

Mr. Moss—The witness has declined to answer. There is no use in letting him exhaust his mind on that question any longer. Are you getting impatient?

The Witness—No; I have wasted the whole day here.

Mr. Moss—You may have to waste some more before we get through here, or else you may have to go to Jersey to keep company with the treasurer and avoid the service of subpoenas.

The Witness—I think I am being imposed on here in my natural rights. Your counsel is taking every advantage of me in this position.

Mr. Moss—You seem to be very happy in this matter. You are smiling.

The Witness—I am not suffering at all. You are wasting time. That is all.

Q. Was it not suggested to you at one time by an official in the building department that you should go to see Mr. Con Daly? Now you are considering. There are two minutes gone. That is a plain simple question. Why do you not answer it? What are you waiting for? Why do you hesitate? Answer the question, please. Why do you not answer? A. I was.

Q. You were so asked? A. Yes, sir.

Q. Who suggested it? Come, come answer up. It does not take long and you know the fact. Who was it? A. I heard your question.

Q. Answer the question, then. Who was it? Do not waste so much of your valuable time. Who was it? Come, come; answer; answer. A. Don't speak to me that way.

Q. Who was it? A. I will answer you when I get ready.

Q. Come along, then, come. Why are you wasting your time and ours in answering that question? Come, come Mr. Himmelwright, answer that question. Why do you delay?

The Witness—Must I answer that question?

The Chairman—Answer the question he asked you. Who was it?

A. Mr. Dooner.

Q. When did Mr. Dooner tell you to go to see Mr. Daly? A. I don't remember the day.

Mr. Moss—Mr. Dooner, step forward, please. Will you just take my chair for a minute.

Q. Is this gentleman, John A. Dooner, here, the man that you speak of? A. Yes, sir.

Q. When was it? A. I don't remember the time. It was probably sometime in the beginning of the year.

Q. The beginning of this year? A. I am not sure as to that. It was some months ago, or perhaps six months ago.

Q. What subject were you discussing when Mr. Dooner told you to see Mr. Daly? A. I don't remember that.

Q. How? A. I don't remember that.

Q. It was a matter of business, was it not? A. I was up at the department at that time.

Q. You were there on a matter of business, were you not? A. Yes, sir.

Q. For the purpose of discussing fireproofing work, were you not? A. I don't remember the subject.

Q. I know; but what were you at that place for? A. I was there to look after some matter which we had pending in the department.

Q. You were there to look after some matter which you—that is, your company—had pending in the department? That is, for approval, was it not? A. Yes, sir.

Q. Some building matter? A. I think so.

Q. Some matter that was pertinent to the office of Mr. Dooner?  
A. I don't hardly think that, no.

Q. Something that was pertinent to the business of the department in which Mr. Dooner was? A. Yes, sir.

Q. What was his exact language to you? A. I don't think I could repeat the conversation.

Q. What was the substance of it? A. Well, it is very difficult for me even to give you an idea of that, but I have a recollection that I was advised to see Mr. Daly—I think.

Q. And where were you to go to see Mr. Daly? A. He was some place uptown. I never went to see Mr. Daly.

Q. I know you did not go to see Mr. Daly and there was a reason why you did not go to see Mr. Daly. What was it?

The Witness—The reason?

Mr. Moss—Yes; there was a reason which you have stated hitherto why you did not go to see Mr. Daly.

A. Well, the reason probably was because I didn't think that Mr. Daly could help us in any way that I would want to have him help us.

Q. That is, that Mr. Daly was not connected with the department? A. Exactly.

Q. He was an outsider and you were directed to go to a liquor store to find him, were you not? A. I don't know that.

Q. Have you not so stated before? A. No, sir; I don't know whether it was a liquor store or any other store. I didn't even know it was a store.

Q. What did Mr. Dooner tell you that Mr. Daly could do for you? A. He did not say. He did not specify.

Q. But both you and Dooner knew that he was not a member of the department, did you not? A. I was not absolutely certain at the time that he was not. I can't answer for Mr. Dooner.

Q. Did you not suspect that it was a trick? Or did you not suspect that Mr. Dooner was trying to get you into trouble? A. I am not afraid and I don't suspect that anybody will get me into trouble.



Q. You do not expect that? A. I am looking out for myself.

Q. Did you take Mr. Dooner's suggestion as being made in good faith? Or did you refuse to go into it because you thought it was a trick? A. Oh, I don't remember such fine shades of—

Q. You do not remember that? A. No.

Q. Did your concern or anybody connected with it employ Mr. Grady last year? A. No, sir.

Q. This year? A. No, sir.

Q. At any time? A. No, sir.

Q. Never made any payments to him? A. Not to my knowledge. I wish to retract that, because I think that is a private business matter. I forgot.

Q. That will not help you now. It is too late. Do you mean to say that your concern or anybody connected with it has not had any business relations with Mr. Grady at all? A. I shall have to take my former stand on that, that is a private business matter. He is not connected with any city department, as far as I know.

Q. But you know that he has appeared before city departments, do you not? A. Not to my personal knowledge.

Q. You know that he has appeared on behalf of your corporation or of your company before city departments, do you not? A. That is a private business matter.

Q. How much money has your concern paid Mr. Grady within the last two years? A. It is useless to ask questions like that.

Q. You decline, do you? A. I do.

Q. You stated on your previous testimony that at the close of the Constable administration you were informed that your construction would be recognized in the future, and you further stated that after the new administration came in in January, 1898, your construction was not put on the list as being regularly approved. Do you recollect that? A. I don't think that was a correct report of my testimony at that time.

Q. Well, it is correct in substance? A. No, sir.

Q. Are those the facts? A. No, sir; I don't think that Mr.

Constable ever stated to us that our construction would be acceptable in the future.

Q. Well, was it not stated on behalf of the building department, after the tests were made, that your construction would be acceptable? A. The statement—I don't think was ever made, but we understood that during the present—that during the term of office of the superintendent at that time, that it would be acceptable.

Q. Yes, that is right. Now I want you to tell us what was the result of the first application made for the approval of your construction by a city department in 1898? A. I don't remember what that was.

Q. Do you remember when you got the first approval during 1898, of your construction? A. I don't think I do.

Q. Do you remember the name of the architect who represented it? A. No, sir; I don't remember the building at all; which was the first one that went through, or which was denied. In fact I don't know what the application was that was first filed.

Q. Did your architect have assistance in the getting of the plans approved? A. Not knowing the particular building, I can't answer that question.

Q. Take all the buildings in the early part of 1898. Did the architect have assistance in getting the plans approved? A. Under the present building laws any permit or any application which would involve the use of our construction would have to be signed by the architect, the owner or a regularly appointed agent—authorized agent of either.

Q. I understand; but did not the architect have the assistance of counsel in the matter of applications? A. I don't think so.

Q. What time in 1898 did you make the contracts for the placing of your system of floors in the Byrnes building on Fifth avenue, near Forty-fourth street? A. The date of that contract as near as I can remember was some time in December.

By Mr. O'Sullivan:

Q. December of what year? A. December, 1898.

By Mr. Moss:

Q. Who was the architect? A. Jeremiah O'Rourke.

Q. Did he have any assistance in getting the plans approved?

A. Not to my knowledge.

Q. Have you not heard that he had the assistance of counsel?

A. No, sir.

Q. Was not an attorney paid for his services in connection with the getting of that approval? A. That is a private business.

Q. That is a private business matter? A. Yes, sir.

Q. Was Mr. Grady paid any money in connection with that business? A. It is useless to ask me that question.

Mr. Moss—Will you ask him to answer?

The Chairman—The committee will direct him to answer the question.

Q. Well, are you going to?

By the Chairman:

Q. Do you decline to answer? The stenographers cannot get it when you nod your head.

(The witness nodded his head.)

The Witness—I beg your pardon. I will try to remember that.

By Mr. Moss:

Q. Did you give any attorney scientific facts or data or specific information concerning your system, so that he could present it before any authorities? A. That is a private business matter.

The Chairman—You are directed to answer the question.

Q. Will you answer? A. It is useless to go through that formality, when I refuse to answer the question.

Mr. Moss—It has to be done, you know.

The Witness—All right. Take your time.

Q. You are putting your construction in a building at the corner of Broadway and Forty-second street, are you not? A. Yes.

Q. When did you secure that contract? A. I could not give you the exact date.

Q. After the first one you have mentioned? A. I am not sure. I think so, but I am not sure.

Q. Who was the architect of that building? A. Henry Kilbourne, I think.

Q. When was the approval of the department secured for that job? A. I could not give you the date. Approximately, the same time that the contract was signed.

Q. Did you have the services of an attorney in getting the approval of the department in that matter? A. That is a private matter.

Q. Do you decline to answer that question? (The witness nods his head.)

The Chairman—The committee directs you to answer the question.

Q. Do you decline to answer? A. You can just save time by considering it——

Q. Never mind. Do not try to teach me my business. You attend to yours. Have you put your construction in a building on Fourth avenue between Tenth and Eleventh streets? A. We put our construction in a building at 80 and 82 Fourth avenue. I don't know its location as to the streets.

Q. 80 and 82? A. 80 and 82.

Q. That is right. Who was the architect in that case? A. I don't remember.

Q. Did you have an attorney to represent you in that case? A. I am not sure as to that.

Q. And if you had an attorney, who was it? A. That is a private business matter—all those.

Q. You forgot, did you? A. I did; I am sorry I answered that.



Mr. Moss—I want it to be recorded that all these refusals to answer are given while the witness is laughing, and in a flippant manner. I want that noted because ordinarily the stenographers' minutes do not take photographs.

Q. Why was it necessary to have an attorney to represent your construction on each job? A. That is a private matter, too.

Mr. Moss—The same request.

The Chairman—The committee directs you to answer the question.

The Witness—The same answer.

Q. If the question of your construction was passed favorably in the one case, why was it necessary to employ an attorney to represent it in other cases? A. Now, that is a question that relates to the building department, does it not?

Mr. Moss—They have related to the building department right along.

The Witness—I beg to differ with you. Will you ask the question again?

The Stenographer (reading)—If the question of your construction was passed favorably in the one case, why was it necessary to employ an attorney to represent it in other cases?

A. In all cases it is necessary to make an application.

Q. Was that the reason why you had to employ an attorney in each of those cases? A. I don't think that we employed an attorney in each case. Some cases we did. Other cases we did not.

Q. In what cases did you employ an attorney? A. I could not distinguish them.

Q. Who was the attorney you employed? A. That is a private matter.

Q. What was the name of the attorney you employed to go to the building department and present your application? A. That is a private matter.

Mr. Moss—Will you direct him to answer?

The Chairman—The committee directs you to answer the question.

The Witness—The same answer.

Q. On your own statement of a minute ago it refers to an action to be taken by the building department? A. It refers to an action of our company in regard to employing an attorney. That has nothing to do with this inquiry.

By the Chairman:

Q. Did you employ more than one attorney? A. That is a private matter.

The Chairman—The committee directs you to answer the question.

The Witness—The same answer.

By Mr. Moss:

Q. Did you not employ only one attorney to represent you? A. That is a private matter.

Q. Did you not pay this attorney \$1,000 for each one of the applications that he represented? A. That is a private matter.

Mr. Moss—Direct him to answer.

The Chairman—The committee directs you to answer the question.

The Witness—The same answer.

Q. If he had represented you in one matter for \$1,000 and secured the approval of the building department for your construction, why was it necessary to employ him again? A. That is our own matter.

Q. That is your own matter? A. Yes, sir.

Q. You refuse to answer? A. I do.

Q. Do not those facts indicate a corrupt condition? A. Not necessarily.

Q. Did you pay these sums of money willingly? A. That is a private matter.

Q. Did you not pay these sums of money practically by extortion? A. That is a private matter.

Mr. Moss—Direct him to answer all these questions.

The Chairman—The committee directs you to answer the questions.

The Witness—The same answer.

Q. Were not these moneys paid by your concern because they felt that the attorney was in collusion with the building department and that was the only way to get the building department to approve of your work?

The Chairman—Answer the question.

Mr. Moss—Yes or no.

The Witness—Please repeat that.

The Stenographer: (reading)—Were not these moneys paid by your concern because they felt that the attorney was in collusion with the building department and that was the only way to get the building department to approve of your work?

A. I don't know.

Q. Then it is possible that that is so, is it? A. You can put any construction on it that you wish.

Q. Is it possible that what I have indicated in my question is the truth? You say you do not know. Is it possible? A. How could I tell that when I don't know?

Q. You do not say that it is not so, do you? A. I could not tell. I did not pass on that. It is out of my department.

Q. What was the name of the attorney? A. That is a private matter.

Q. You decline to answer, do you? And you decline by your answers to assist us in finding out who the attorney is and whether it is true or not that he was extorting money from your concern, do you? A. That is a pretty complicated question.

Q. Do you decline to answer that question? A. In that form, yes, sir.

Q. You decline to give us any assistance in ferreting out the truth as to whether or not an attorney was endeavoring to extort money from your concern by reason of his connection with the building department, do you? Or will you give us that assistance? A. By answering that question I would be compelled to infer that I knew all the motives and the conditions and everything under which the company employed the attorney.

Mr. Moss—Yes.

The Witness—I don't know those things and consequently I cannot answer that question.

Q. With the statement of the purposes that we have to investigate this matter and to discover whether that extortion has been practiced, will you now answer any of the questions which you have hitherto refused to answer? Or do you persist in the refusals you have made? A. Certainly.

Q. You persist? A. Certainly.

Mr. Moss—I will suspend you, for the present and you can go and consult with the treasurer and find out for me whether he is evading service. We will send for you again.

The Witness—I would like to make a statement before I leave the witness stand.

Mr. Moss—No——

Mr. O'Sullivan—He says he does not want the truth.

Mr. Moss—We do not want any statement at all.

The Witness—Do you want the truth? If you want the truth I can give it to you now.

Mr. Moss—Give it.

The Witness—During my former testimony——

The Chairman—Sit down.

The Witness—I can speak better if I stand.

Mr. Moss—Perhaps that is where we have made the mistake.

The Witness—The testimony which was elicited from me some



days ago, when I was first before this committee, lead the press, the public, to infer that our company had a monopoly on the school buildings. I wish to correct that. At the time I wished to make the necessary explanation to clear that matter up but I was refused that privilege. By the course of questioning that the counsel of this committee assumed, we were made to appear—it was made to appear that since Mr. Croker joined or became connected with our company, we were enabled to bid on the school buildings. I have here a contract which I wish to place in evidence, for grammar school No. 75.

Q. No. 75, or 175? A. Seventy-five which was awarded to us on November 12, 1896. At that time we had—we were specified—the Roebling construction was specified verbatim as given in our catalogue, just the same as it was during the spring of this year. We bid on five or six buildings at that time and were the lowest bidders on this particular building, and receive the contract.

Q. Did you execute it? A. We executed the contract, and the Roebling system is now in grammar school No. 75. I would like—you can use that paper. You are welcome to have it. Give me a receipt for it. I ask that the paper be marked in evidence.

Mr. Moss—No, we give no receipt.

Q. Why do you volunteer this? A. Because our company was placed in a wrong light by your questions.

Q. Is not this private business? A. It may be, but at the same time the Roebling—

Mr. Moss—Wait a minute.

The Witness—No, sir; I have the floor. I beg your pardon.

Mr. Moss—You are in my hands.

The Witness—No, sir; I have the floor.

The Chairman—You have volunteered a statement and counsel has the right to ask questions on your statement.

Mr. Moss—I shall object to your stating this private business which is designed to put your company in some sort of light, unless you will answer the other questions I have asked you.

The Witness—This is not a private business question. This is a matter which involves the city departments. I defy you to change that.

Mr. Moss—I object to any further statement unless he will answer the questions.

The Witness—This is a public building, just as much as the school buildings were that you questioned me about two weeks ago.

Mr. Hoffman—I would like to ask the witness several questions.

Mr. Moss—Wait a moment, Mr. Hoffman. He is in my hands.

Mr. Hoffman—When you have finished, then.

Mr. Moss—I object to any continuation of this statement, unless the witness will answer every one of those questions. It is not fair, it is not right, it is not honorable. It is inconsistent.

The Chairman—This witness comes here ostensibly to give the facts and the truth. He undertakes to make a statement, and yet declines to answer the questions asked. If he wants to give the whole truth, in addition to this statement, he should answer the questions that have been asked him. What we want to get at is the whole truth.

The Witness—That is what I want to give.

The Chairman—You volunteered statements on other matters in the same connection.

The Witness—No, sir; I beg to differ with the chairman on this point.

Mr. Moss—You have no right to differ with the chairman.

The Witness—I have the right to express my opinion.

Mr. Moss—You have no right to do it. You might as well have a suitor stand up and differ with the judge and pass upon the questions. He would soon find out where he stood. We have a privilege, when we are beaten in court, of going down

stairs to another place and cussing as much as we please, but not in court.

The Witness—I wish to state in addition——

The Chairman—You will make no statement unless you answer the questions.

The Witness—Very well, let me have the questions.

Mr. Moss—You can come back on another occasion and we will have those questions all drawn up and have you answer them.

The Witness—I request the right to make that statement so that you will have the whole truth.

Mr. Moss—You shall have fair play. You can go home and look over this testimony when it is printed in the papers to-morrow.

The Witness—That is not a correct account of it.

Mr. Moss—We will draw off a list of the questions which you have refused to answer, and at some convenient time to yourself and ourselves you shall come here and answer those questions, and then you shall make the statement: Not the statement first and the answers afterwards, but the answers first and the statement afterwards.

The Witness—The point I make is this——

Mr. Moss—No more points. I withdraw the witness.

The Witness—Have I no rights before the committee?

The Chairman—You have a right to answer questions, and you declined to answer questions that counsel has been putting to you. You must now step down from the witness stand.

Mr. Hoffman—I would like to ask a question——

The Witness—I would like to know if I have no rights as a citizen of the United States or of the state of New York or anybody else.

The Chairman—You take the right as a citizen to answer any questions that you please, and it is a wrong attitude.

The Witness—I answered every question which you asked me before, and you took an advantage of me.

Mr. Moss—Mr. Chairman, do you permit that?

The Chairman—No, certainly not.

The Witness—I have no rights. I was not allowed to state the facts.

The Chairman—The sergeant-at-arms will see that the witness steps down.

Mr. Hoffman—Do I understand that this committee refuses the right of this witness to make a statement concerning some things that have appeared before?

The Chairman—I have already said that the witness may make any statement, providing he first answers the questions. He professes to come here to state the whole truth. Why does he not answer the questions?

The Witness—My statement with reference to my former testimony—

Mr. Moss—No, stop, stop.

The Chairman—Where is the sergeant-at-arms?

The Witness (to the sergeant-at-arms)—Take me down.

Mr. Moss—I will have the stenographer mark the paper produced by the witness.

The paper is marked “Exhibit M.”

Mr. Moss—It is intolerable that witnesses should come here and select what they will answer and what they will not answer, and then, after taking up our time, say “We will answer some of those questions about which we have been fencing for an hour.”

The Chairman—They have refused to answer questions that have been asked for the purpose of getting at the truth, and then volunteer statements.

Mr. Moss—What I said a minute ago I will stand to, that when the witness is willing to come forward and does come forward and answer all those questions, he may make any statement he pleases.

The Chairman—The committee will take that stand always. We do not propose to allow witnesses to come here and volunteer such statements as they deem desirable, and withhold others. We



want to get at the facts. If they refuse to answer questions put to them, that the committee think are germane and proper, they will not be allowed to make such statements as they desire to make and to suppress others.

GEORGE LIVINGSTON, being duly sworn, testified as follows:

Examined by Mr. Moss:

I have the honor of being a school commissioner. I am not a member of the United Company. I am not a member of a company in which young Mr. Frank Croker is interested. I am not the man.

Q. I want to ask you if you know how it came that in the specifications for public school building No. 175, on page 18, the provision for terra cotta fireproofing was stricken out? A. I haven't seen any of the specifications marked in that way, Mr. Counsellor; but I think I can explain it to your satisfaction.

Q. Will you explain it? A. I suppose you have reference now, or it is your object to draw out the question about the Roebling system. I desire to say——

Q. Do you know how this came to be stricken out? A. Not that specific specification; no, sir; I do not.

Q. Do you know how it came that the terra cotta fireproofing was taken out of the plans for School No. 175? A. The fact that we believed the Roebling system was a great deal better.

Q. It is true, is it, that it was stricken out? A. It is true, so far as I know, from the specifications handed me there. I don't examine every specification that is printed.

Q. But irrespective of this particular specification—— A. I have never read this specification before.

Q. But you know of the fact that the terra cotta system was stricken out? A. I believe so; yes, sir.

Q. And that was done at your suggestion was it not? A. No.

Q. Did you not speak to Mr. Snyder about striking out the terra cotta system? A. No, sir.

Q. Did you not talk with him about it? A. No, sir.

Q. Who did it? A. That I haven't the slightest idea. The conversation with Mr. Snyder was just the reverse. When I read the specifications and found the Roebling system was specified, I told the superintendent that there were other constructions that were equally good, and it was advisable to permit the contractors to bid on all constructions of the same nature. That was the position I took. My advice was followed. The specifications so drawn that all contractors could bid for fireproofing; all specifications; particularly that one building you speak of; all the buildings that have been let since the 1st of January.

Q. On the twentieth page is the Roebling system specified in so many words? A. I understand that.

Q. With the exact provision taken from the catalogue? A. Yes, sir; but if you had asked whether there was any alterations or additions or amendments made to that particular specification, when you obtained it from that department, you would have found the records in the building department that every contractor who was building on work there was notified that they had the privilege of sending bids in on other constructions.

Q. How could they send them on plans that specified the Roebling system and no other? A. Very easily. It was substituting one style of construction to another. It was only a question of clay blocks to concrete.

Q. But the clay blocks were stricken out? A. I presume so, from what you show there.

Q. Why was that? A. I just told you, that they believed that the Roebling or a similar construction was even better than the clay blocks, and for another reason——

Q. They have not done so with reference to School 175. Why was the clay block system restored? A. The contractor was given the privilege of putting in a bid on either.

Q. You concede that the terra cotta blocks specifications were stricken out. Now I ask you why they were restored? A. Each building is of a different construction, and the ideas of the architect may differ as regards the general construction. He may think in one instance the clay blocks will be preferred to the steel

construction or the terra cotta or the Roebling system or the general expanding metal system.

Mr. Moss—I am not talking about the buildings, but about your department.

The Witness—I am speaking about the school department.

Mr. Moss—Which, in School No. 175, actually struck out of the specifications the terra cotta system, and then afterwards put it back again. Why was it put back?

The Witness—I said before the contractors were privileged to bid on either. They thought if they were specified to exclude the other they would not send in their bids that way. It was given so that everybody would have an opportunity to bid.

Q. At first it was stricken out because you thought the Roebling system was better? A. No; don't put it that I thought, because I did not.

Q. Because your board thought it was better the terra cotta was restored because you thought they all ought to have a chance? A. Why not?

Q. Why was it ever stricken out then? A. Simply for the reason that in some constructions, the concrete system is preferred to the block system.

Q. Why was it restored? A. I think my answer covers it.

Q. Was not the terra cotta system restored because Mr. Donnelly, the walking delegate of Bricklayer's Union No. 7, went to the school board and protested against the striking out? A. Not in my presence; I never heard of it; I do not know who Mr. Donnelly is; I do not know that he is related by marriage to one of the officers of the building department; I do not know that he takes an interest in this terra cotta construction; I do not know that he is connected with Mr. Dooner, or with Mr. Brady; I never heard that he took an interest in the terra cotta construction; and sometimes called the workmen out on strike when the terra cotta system was interfered with; I do not know that it was because of the aforesaid suggestions of Mr. Dooner that terra cotta was restored.

Q. I show you that notice, dated March 18, 1899, signed in type "C. B. J. Snyder," and ask you if you do not know that that notice was sent out in connection with this specification for School 175? A. I never saw the notice before.

Q. You never heard of it? A. No, sir. I am not a member of the Democratic club. I am not acquainted with Mr. Croker. I am a member of the organization; that is all.

By Mr. Hoffman:

Q. In regard to the terra cotta system, what has that been used for in fire proofing? A. For floor arches.

Q. And in large or small buildings? A. In the large buildings. We have used it in the small also. I desire, if I may be permitted to say, the statement made by Mr. Himmelwright is absolutely true. The arch was used in grammar schools in 1895 and 1896—in Norfolk street and One Hundred and Sixth street and St. Nicholas avenue.

Q. So that as far back as 1895 I understand you to say the Roebling system was used? A. Yes, sir.

By the Chairman:

Q. That was during Mr. Constable's administration? A. Yes, sir.

By Mr. Hoffman:

Q. As far back as 1895 it was in use? A. Yes, sir.

Q. So that it was not unusual to have it used again? A. Not to my knowledge. I do not so consider it. It was not a surprise to me that the system was recognized by the architects, not the slightest.

By the Chairman:

Q. It was not used after the Constable administration until recently? A. I didn't become a member of the board until the 2d of January. My previous occasion was previous to 1895; from 1892 to 1895.



Q. Then you are prepared to testify as to the other administration? A. Oh, no, sir.

By Mr. Moss:

So far as I know there is no practical objection to the Roebling system and to similar systems. They ought to have no difficulty in being recognized in public and private buildings. I think the system is equally as good as any other in the market, and I think there is others, as good as the Roebling. So far as I know there is no reason why expensive legal fees should be charged to sustain that system. If I was building a building I should leave it between the Roebling or the expanded metal lath. I consider one equal to the other. It would be all a question of price. It is not a question of expert. The clay blocks are made of various thicknesses; some are light and some are heavier; but the general construction, the steel construction or the concrete construction is much lighter and gives an opportunity to make a lighter building and does not cost so much. But the blocks are undoubtedly heavier and in that way require a heavier iron or steel construction, and more expensive.

JOHN J. DONNELLY, being duly sworn, testified as follows:

Examined by Mr. Moss:

I live at 105 Leroy street; at the present time I am the business agent of the Bricklayer's Union No. 7; it used to be known as the walking delegate; I had some conversation with Mr. Snyder relative to the plans and specifications for Public School No. 175, after the terra cotta system was stricken out; I was appointed—in other words, was requested to wait on the gentleman, Mr. Snyder, the superintendent of the department of building of the board of education. The rules and regulations regarding the organization during the year require me at times to go and look after the interests of that construction of a building, such as the hollow block system and the brick system, etc.; and I learned through a little in-

formation I had received from a party on Broadway that School 175 located at Walton avenue and Jerome avenue, I believe it is, was to be constructed of the Roebling system. I went down to the estimate room at 490 Grand street or Broome street, I ain't sure which now, and procured a copy of the specifications and I found that section relative to the segmental arch block was stricken out in red ink, as it is here, and the outcome of it was that I reported it to the organization, that is, the Bricklayer's Union. They requested us to go down and wait on Mr. Snyder and find out what the cause was. We seen Mr. Snyder and the causes he gave us for the matter being stricken out was simply because they had quite a number of schools, awarded this year since the 1st of January, and that they were trying to get them all out at once, and that not only School 175, I believe, but there was more, if I ain't mistaken. They were distributing the work. They were not against hollow tile or segmental arch, but they wanted to put them all out together and they wanted to divide them out and they didn't care as long as the Roebling system stood the test of the building department. They wanted to go ahead with the work. I am only saying what he argued. I could not understand how that would hurry in work to restrict the building to certain firms and shut out other firms; I don't know anything about that at all. It appeared to me there was a preference for the Roebling system which was not fair; it seems it was non-competitive. For my organization I went up there to protest against the arrangement. The interest our organization had in the system that should be used for building a school was because bricklayers, as a general rule, would be employed on the hollow block system. There would be more bricklayers employed on the hollow brick system than there would be on the concrete system. I am connected with John A. Dooner in some way, I am related to him, his brother-in-law. He is deputy commissioner of buildings, I believe—superintendent. I have not been in the habit of meeting frequently with Mr. Dooner. He is a member of Bricklayer's Union No. 7, and he was then in the organization which directed me to go and protest against the cutting out of

these hollow tiles. He was a member, but he was not present. I always took it for granted that he was a dead lover of the hollow block system, always in favor of it, simply because he had been a builder himself, and he naturally looks for that class of work to be in his contract, instead of not being in his contract—on condition that he was a builder.

Q. Do you mean to say that it was simply because of his love for the bricklayers who would get more work under that system?

A. I believe so.

Q. Was it not because he was acquainted with people who were interested financially in the hollow tile system? A. No, not that I know of.

Q. Did you ever hear of that? A. No, sir.

Q. How successful were you in your protest? A. Successful enough; so as to know that there was a slip placed in School 175 a day or two later.

Q. Is that the slip? A. I will tell you in a moment. (Reading it.) Yes, sir; I received a copy of that myself.

Mr. Moss—Now, I will read that in evidence if you will permit me.

Mr. O'Sullivan—Will you not lay a little more foundation? I would like to ask a question.

By Mr. O'Sullivan:

Q. Do you know that that came from the building department?

A. From what Mr. Snyder gave me to understand on the following—

Q. Do you know that slip that Mr. Moss shows you— A. No, sir; I do not. I received a copy of that from Mr. Snyder.

Q. Will you repeat some of the words of it?

Mr. Moss—Mr. Snyder, if he were here, I know from my communications with him, would at once identify this. We are not trying a case.

The Chairman—The witness says he received a copy.

Mr. Moss (reading)—“ You are hereby notified that the plans and specifications for Public School 175 at Jerome and Walton avenues, between One Hundred and Eighty-fourth street and Fordham Road, borough of the Bronx, are hereby amended so as to permit the use of the six-inch segmental arch as originally prescribed on page 18 of the specifications. C. B. J. Snyder, Superintendent of School Buildings, March 16, 1899.”

The Witness—I want to correct one little mistake I made there. I ain't positive whether I received the copy of that from Mr. Snyder or not, or whether I received it from the estimating rooms; simply for the reason that I know I became possessed of a copy of the specifications of School 175. In the estimating rooms you are supposed to notify those people that you are getting a copy of that. In other words, I didn't know whether I could get a copy of that on conditions that they knew who I was. I put my name, in other words, as a builder. I may have received a copy of that from the estimating room in Broome street instead of from Mr. Snyder. I want to stand corrected on that.

Q. Why did you think that they might not give you a copy of it, if they knew who you were? A. I don't know. That is my supposition. They ain't supposed to give copies, I believe, to everybody, unless it is people who want to make an estimate.

Q. So far as you know the change was made on account of your protest? A. I can't say that.

Q. You know of no other reason for it, do you? A. No, sir; I do not. I have heard of Mr. William Nihil, an inspector in the building department. I have never been in his place in Grand street, never met Mr. Dooner there. I remember opposing a bill that was introduced in the Legislature on building matters. It was a bill amending the construction of buildings on fireproofing questions in the city of New York, inserting a clause in the Building Law as at the present time—the words “concrete arches.” I don't think the purpose of that was to let in the Roebling system. There were other systems the same as that; the same as the Roebling. There is the Columbian system and the Bailey system,



etc. The purpose of that bill was to let in concrete systems, to let them in in competition with the tile system, not to supplant them; give them a chance to compete against them, on a question of law. I believe that bill was introduced by Mr. Senator Sullivan. I opposed that bill simply because we took it for granted it would curtail the work on construction, the inside construction of a building, especially of steel structures, considerably to the detriment of our organization. I didn't go to Albany, sent a petition there, a written protest. I had consultations with my organization before I did that. Not with Mr. Dooner. I know that he is a dead lover of the tile system, because I always heard him advocating it. He knew that this protest was being made against the bill. He understood that. It was made with his knowledge and with his consent. Our protest was successful up to date.

Mr. O'Sullivan—I would like to ask him whether it is not to the interests of bricklayers to make these arches of terra cotta or tile, or hollow brick, and if it is not a fact that bricklayers do not make the concrete construction.

The Chairman—He has already testified to that.

The Witness—No, I want to correct him. It is not a fact. The bricklayers at the present time do work on concrete arches. We have inserted a section in our rules and regulations, an agreement with mason builders of this city, that union bricklayers shall be employed to spread and distribute and pack this concrete also; that the only feature about it is, it simply curtails the number, numerically speaking, to a small degree, to the number in hollow tile.

By Mr. O'Sullivan:

Q. It is better for the bricklayers to lay the hollow brick and the terra cotta than the tile? A. Yes, sir.

By Mr. Moss:

I say we have made an agreement with masons, mason-builders, by which, whenever they use the concrete system, they are

to put bricklayers to work. That concrete system consists in the placing upon the wire mesh the cement and cinders that have been mixed together, and sand, a sort of mortar, something like it, which is to be spread and put into this mesh—wire netting. A bricklayer never uses a shovel. He would not use a shovel. He always uses a trowel.

These bricklayers lay that mortar on the wire netting with a trowel, until they come to the top flange of the beam, and then they level it off. That is all done with the trowel. It would be done very much quicker with a shovel, but a bricklayer would not use a shovel. He uses a trowel; and therefore it takes him longer to do a given amount of work than a man with a shovel, considerably.

Q. But that is a sort of concession made by the mason builders to the bricklayers, in the interest of harmony and peace? A. It is not a concession on their party simply, because I don't believe the contract on general principles comes directly under there. The contracts generally come direct from the architect's office, on condition that the contractor is not specified in the specifications. It is not specified in the specifications that the Roebling or the Columbian or any other system shall be used. Of course he don't receive a remuneration, as I understand, from any of these systems that are being used in a building.

Q. If you bricklayer with his trowel was not allowed to work upon this concrete, you would go out, would you not? A. We would in certain cases. We might go out on condition that the job was not in control of the mason builders.

HENRY E. BERLINER, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am the assistant secretary of the Maryland Whiskey Company. I have brought our stock book. Mr. Jacob S. Rosenthal, of Baltimore, and Julius Dreyfus, of New York, and Mr. Stewart, now deceased, are the stockholders of that company. Those are all the stockholders of the company. They have been the stockholders since its corporation. There has never been anyone else.

WILSON P. MARSHBANK, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am one of the organizers of the Contractor's Supply Company. That is a company that deals in sewer pipe, I believe, but I do not know, I have forgotten. This company was organized in the latter part of December, in the office of Guggenheimer, Untermyer & Marshall. Guggenheimer is president of the council. This Contractor's Supply Company was organized in that office. I was employed in the office. I am employed there now. I don't hold any stock of the company, the Contractor's Supply Company. I had—two shares of stock were issued to me as an incorporator. I indorsed that stock in blank. I was elected to an office, president. A meeting was held, certainly; the first meeting was held—the organization meeting. I presided at that meeting. Mr. Neary, of our office, and Mr. J. C. L. Rogge were present at that meeting. I don't know whether he was formerly engineer in the sewer department. I have heard it stated that he was. I don't know it, though. Someone was elected secretary, Mr. Neary. He kept the minutes. I think Mr. Rogge was elected treasurer; I forget now. That was the man to hold the money. There was money present at that meeting, money to pay for the stock that was issued. Money was paid for the stock. Mr. Rogge paid for mine. He paid for Neary's stock. He paid for his own stock. I didn't see the check made. I did not see Mr. Rogge pay himself as treasurer the money for the stock that I had and Neary had and he had, but I believe he had the money with him there to pay for it. He stated in the minutes that it was paid for. The company was organized for contracting. You see, my position in that office is I simply go into these companies to oblige. You understand that. I am in so many of them that I don't pay particular attention to each one. There have been many companies organized in the last two years, a great many, contracting companies—I don't remember any special one but this one—companies to do business in the United States, and in

the city of New York, among other places. I was president of this corporation until after a contract was entered into With Mr. Rogge. I then resigned. I was then elected secretary. The contract was entered into with Mr. Rogge to become manager of the company. The company made the contract, the Contractor's Supply Company. The supply company made a contract with Mr. Rogge to become the manager, and then I resigned as president. Mr. Rogge was elected in my place. I gave the stock to Mr. Rogge. The same thing is true of Mr. Neary. He did just as I did, and he cannot tell you any more than I can tell, and I believe our office continues to be the legal adviser of the Contractor's Supply Company. The present stockholders are Mr. Rogge and myself. I have endorsed my stock in blank. Mr. Rogge holds it, but I still am a stockholder, I suppose. Mr. McCann has two shares. Charles E. F. McCann, 146 Broadway, a member of the district attorney's office, I believe he is there, yes, sir. He holds only two shares. Mr. McCann and Mr. Rogge and myself are the only stockholders now. I know that is so. I do not know what class of business the Contractor's Supply Company is doing. I have no interest in it. I don't know. I simply hold the stock as a matter of convenience, just simply as a convenience. The total number of shares of stock is 100; a small corporation, \$10,000. I hold two, Mr. McCann two, and Mr. Rogge, I don't think he has ninety-six. I don't think the entire capital of the company was issued. I can't say now how much was issued. I don't remember. There were no other persons in consultation with me about the formation of this company and about its stock, other than the persons I have named, outside of the members of the firm. The company was formed in the latter part of December. The first stock was issued for cash. I mentioned the contract that had been entered into with Mr. Rogge to become its manager. That is not property. I did not treat that as property. I don't remember that it received a patent, that a patent was contributed to it. I never heard of the Cooper & Bieg patent. For sewer pipes, I never heard of it; for self-centering sewer pipes; no, sir; I never heard of it.



By Mr. Hoffman:

Q. I will ask you a few questions. How long have you been in the employ of Guggenheimer, Untermeyer and Marshall? A. Six years.

Q. How often have you been an incorporator? A. About fifty times or a hundred.

Q. So that that was not an unusual thing for you to be selected as incorporator? A. No, sir; it is very usual.

Q. That is done in every large law office in New York, is it not? A. Yes, sir.

## BOARD OF TRADE ROOMS, 203 BROADWAY,

NEW YORK, SATURDAY, *April 23*, 1899—10.30 O'CLOCK A. M.

The committee met pursuant to adjournment, all the members being present except Mr. McEwan.

The Chairman—Are you ready to proceed?

Mr. Moss—Yes, sir.

Mr. Clarke—Mr. Chairman, in view of certain occurrences upon the witness stand, and certain comments in the public prints, I desire to call the attention of the committee, of witnesses and of the gentlemen of the press to the following provisions of the Penal Code:

“Section 68. A person who, being duly summoned to attend as a witness before either house of the legislature or any committee thereof authorized to summon witnesses, refuses or neglects, without lawful excuse, to attend pursuant to such summons, is guilty of a misdemeanor.

“Section 69. A person who, being present before either house of the legislature, or any committee thereof authorized to summon witnesses, wilfully refuses to be sworn or affirmed or to answer any material and proper questions or to produce upon reasonable notice any material and proper books, papers, or documents in his possession or under his control, is guilty of a misdemeanor.

“Section 15. A person convicted of a crime declared to be a misdemeanor, for which no other punishment is especially prescribed by this Code, or by any other statutory provision in force at the time of the conviction and sentence, is punishable by imprisonment in the penitentiary or county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both.”

You will observe, for contumacious refusal to answer proper and material questions a witness commits a misdemeanor. It is the purpose of counsel to this committee, with the approval of the committee, at the proper time, to be determined by the judgment of the counsel and the committee, to present such contumacious witnesses who have refused to answer proper and material questions as the committee shall determine, to the con-

stituted criminal authorities of this county for presentment, indictment and punishment; not for a moment doubting that the constitutional officer of this county, the district attorney, will lend his aid to the proper observance of the laws of the state. If, for any reason, by press of business, or otherwise, it should be impossible to present such matters to a grand jury of this county, the provisions of the law of this state, which authorize the governor to appoint a judge to hold an extraordinary term of the supreme court for criminal matters, and authorizes the judge so appointed to compel an extraordinary grand jury, and authorizes the governor to appoint the attorney-general or one of his deputies to conduct such matters as may be necessary before such court and such extraordinary grand jury, will be invoked, if necessary, in the due and proper time, subject to the control of the committee, and upon the advice of counsel to the same.

LUCIAN L. BONHEUR, being duly sworn, testified as follows:

Examined by Mr. Moss:

I live at 1187 Lexington avenue. I had some connection with the Maryland Whiskey Company at one time. Mr. Maurice Untermyer, the counsel, invited me to take an interest in that company, the partner of Mr. Guggenheimer. It was last June or July. He asked me if I would like to help him organize a company that was organized—if I would want to organize the inside office of the company, as he knew that I was doing such a kind of business outside of my own business. The company was then organized, and he asked me to organize the inside office of the company. I am a man of some experience in the organization of corporations and the working of corporations. I don't know exactly what else he told me. He simply asked me if I would spend two or three months of my time to organize that company. I said I certainly would. He didn't tell me who was interested in the company. He told me it was a large company. It was to be an agency for a Baltimore or Maryland whiskey. The whiskey is very well known and it used to be in the hands of an old man, and it was

thought it would be profitable to make a stock company out of it, and work it through a younger element. I did go into the office and take charge of its organization. I met there the president of the company, Mr. Rosenthal, of Baltimore, Jacob S. Rosenthal. I met Mr. Heberd, who was the treasurer of the company. He used to have the agency before it was made a stock company. There was a bookkeeper there, Mr. Berliner; and there was a lady typewriter, and a lady cashier. Salesmen were engaged. There was a man by the name of Philip Strauss who was with the company before, already. There was a man by the name of Sam Meirs, I think. I can't tell you his connection; I know he was a tailor on Broadway, Samuel Meirs, the tailor on Broadway. I don't know his connection, though; Mr. Needles; I can't tell you who he is. I never engaged those salesmen. The counsel of the company engaged them, or the president. There was two or three young men engaged, but they were not kept. I don't know their names. I don't remember their names. Frank Sexton was one of them. He was already there before I got into the company; that was a brother of Police Commissioner Sexton, I understand. Frank Farrell was not engaged. I never saw Frank Farrell in connection with the business. I remained in the company about three or four months. Those men that I have mentioned were engaged in soliciting trade in New York city; all around; all over; going into the saloons and drumming trade. Why did I leave? Well, so far as I was concerned, there was nothing in it; not the work for me to do there; I didn't find it agreeable, and it interfered with my other business. I thought I would simply have to organize the inside work, but I found out I had hardly anything to organize; it was organized. It was so to say organized. I didn't have to engage salesmen, and so I didn't like to be a dummy. I didn't like the kind of salesmen that were engaged. I would have liked to engage business salesmen. I didn't like to engage that kind of salesmen. They didn't do anything. I found out that I would hurt my name, I would hurt myself, by being connected with a company that was bound to fail, as far as business was concerned.



Q. Was it not a matter of general reputation, of general rumor, of general knowledge, that this concern, through these salesmen, was drumming trade in disreputable places in the city? And was not that one of the reasons why you wished to disconnect yourself with it? A. Well, they tried to do business wherever they could.

Q. Was it not the common rumor that they were drumming in disreputable places in the city through these salesmen? A. Well, some of the headquarters of the company said something about that once.

Q. Some of the headquarters of the company? A. Yes.

Q. What headquarters? A. I mean the Baltimore people.

Q. Did the Baltimore people object to it? A. Yes, sir; the Maryland Club Whiskey, as far as it was known, before it got into the hands of that company, was a high-toned whiskey; a very fine whiskey; sold among the first class houses; and it got to be sold among the lower class of saloons and headquarters didn't like it, and I didn't want to have anything to do with it. I don't know anything about who were the stockholders. I could never find out.

Q. Were Mr. Carroll or Mr. Sexton interested in the company, so far as you know—the commissioner? A. Not that I know.

Q. Was it understood in the company that they were? A. Oh, I don't know.

Q. Was it a matter of common talk that they were—in the company, among the people that you associated with there? A. No; I don't think exactly that. But I don't know. You can infer from the number being there that many—but I don't know. I can't say I knew it.

Q. Those matters were present to your mind when you resigned, were they not? A. Yes, sir; all those things.

Q. Was the name of the chief of police, William S. Devery, mentioned in connection with the affairs of the company in New York? A. Well, I don't know. I don't travel among those people, and I don't know it.

Q. Were they, in your hearing? Was his name discussed in connection with this company or the whiskey? A. No. You can find more from the president of the company, from the counsel of the company and from the salesmen.

By Mr. Hoffman:

Q. Did you employ either one of those persons that you have mentioned as salesmen? A. No.

Q. Were you present at the time they were employed? A. Some; yes. I forgot one.

Q. Who? A. I forgot—Fisher was engaged.

Q. Which of those salesmen were you acquainted with when they were employed? A. That young Fisher from Brooklyn, that I have just mentioned.

Q. Is that the only one? A. That is the only one I can remember.

Q. So far, as a matter of fact, from your personal knowledge, you do not know whether any of the other persons you have referred to were employed as salesmen? A. I beg your pardon. I know it because they brought orders.

Q. Who brought orders? A. Those salesmen.

Q. Which one? A. Frank Sexton and all those that I have mentioned brought orders to the office.

Q. To you? A. They brought orders to me and to the office.

By Mr. Moss:

Q. The same with Mr. Miers? A. The same with Mr. Miers.

SAMUEL MIERS, called as a witness and duly sworn, testified as follows:

Examined by Mr. Moss:

I am in the tailor business on Broadway, 1435.

Q. Did you take orders for whiskey into the office of the Maryland Whiskey Company?

The Witness—Did I take orders, what?

Mr. Moss—For whiskey, into the office of the Maryland Whiskey Company?

A. I won't answer that. That is my business.

The Chairman—What is that?

The Witness—That is a business affair.

The Chairman—We assume it is a business affair.

The Witness—Well, that is my business.

Q. Did you obtain orders for the Maryland Whiskey Company in saloons in the tenderloin precinct? A. That is my business; I won't answer that.

Q. Did you obtain orders for Maryland whiskey in the concert gardens in the tenderloin precinct—the Nineteenth precinct? A. I won't answer that.

Q. The same answer? A. I won't answer.

Q. Did you obtain orders for the Maryland Whiskey Company from disreputable saloons and disorderly houses in the Nineteenth precinct in the city of New York? A. I won't answer.

Q. Were you employed by Police Commissioner Sexton to solicit trade in the disorderly resorts in the city of New York for the Maryland Whiskey? A. I never spoke to him on business.

Q. You spoke to him? A. Never in my life.

Q. You never spoke to him on business? A. No, sir.

The Chairman—You have not answered the question.

Mr. Moss—Answer the question.

The Witness—Well, that is the answer.

Q. Did you ever speak to Commissioner Sexton? A. Yes.

Q. Did you ever speak to him about whiskey? A. Never.

Q. Did you ever speak to Chief of Police Devery? A. Yes, sir.

Q. Do you know him? A. Well.

Q. You have been an associate of his for years, have you not?  
A. Yes.

Q. And also an associate of Commissioner Sexton? A. No, sir.

Q. Of Commissioner Hess? A. Yes, sir.

Q. You consider yourself a friend of his? A. Yes, sir.

Q. And of many police officials of the present department?  
Is not that so? A. Yes, sir.

Q. You have been interested in recommending applicants for appointments upon the police force, have you not? A. Never.

Q. Did you never recommend an applicant? A. Never.

Q. Did you never assist an applicant? A. Never.

Q. You were a friend of Charles Grant?

The Witness—Who?

Mr. Moss—Charles Grant, were you not?

A. Yes, sir.

Q. Charles Grant was the private secretary of Commissioner McClave, of the former police administration, was he not? A. Yes, sir.

Q. And you discussed at various times with Charles Grant the matter of appointments to the police force, did you not? A. Never in my life.

Q. Why was it that you left town during the investigation of the Lexow committee?

The Witness—Who says so?

Q. Did you? A. You ought to know whether I did.

Q. Did you? A. Well, you ought to know.

The Chairman—Answer the question.

Q. I should say you did. Do you deny it? A. I never left a minute.

Q. Never left a minute? A. Not a second.

Q. Why did you not say so? A. Because you ought to know.

Q. Did you evade service of subpoenas? A. Never.

Q. Who was it that employed you to solicit orders for Maryland whiskey? A. I won't answer it.



Q. You will not answer? A. No.

Q. Was it a member of the police force? A. I won't answer.

Mr. Moss—I wish the committee would direct the witness to answer this question, and all the previous questions that he has refused to answer.

The Chairman—The committee will so direct.

The Witness—Well, all the committees in the world won't direct me to answer anything appertaining to my business.

Mr. Moss—They have directed you, and you have the privilege of declining, if you want to.

The Witness—Well, I won't answer you.

Q. Would the answers to these questions tend to degrade you?

A. I won't answer that.

Q. Would they tend to convict you of a crime? A. I won't answer that.

Mr. Moss—Direct him to answer, please.

The Chairman—The committee directs the witness to answer the questions.

The Witness—Well, I won't answer anything like that.

Q. Were you employed by any member of the city government to solicit orders for Maryland whiskey? A. I won't answer.

Mr. Moss—The same direction.

The Chairman—The committee directs you to answer the question.

(No answer.)

Mr. Moss—And he refuses.

Q. Were you employed by any member of the city government or of the police department, in particular, to go to disorderly houses and immoral places in the city of New York and solicit orders for Maryland whiskey? A. I won't answer.

Mr. Moss—The same direction.

The Chairman—The committee directs you to answer the question.

The Witness—I won't answer.

Q. Did you share commissions made by you in selling Maryland whiskey with any member of the police department? A. I won't answer that.

Mr. Moss—Direct him, please.

The Chairman—The committee directs you to answer the question.

The Witness—I won't answer that.

Mr. Moss—Now, the counsel requests you to at once take such action as is proper to direct the counsel to the committee to proceed against this witness for the misdemeanor of contempt of the committee, and requests you to order the stenographer to furnish at once to them for this purpose a transcript of this witness's testimony.

The Chairman—The committee will direct that the stenographer furnish to the counsel a copy of the minutes. The counsel are hereby authorized and directed to take such proceedings in the case as they may deem proper to bring this witness before the court—as soon as practicable.

Mr. Moss—Now, Mr. Miers, on account of your recalcitrancy, we suspend this examination at the present moment; but you are on the witness stand and will consider yourself under subpoena and liable to attend here whenever we want you. That will do for the present.

CHARLES C. HAIGHT, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am an architect, and as an architect I have occasion to go before the superintendent of buildings and the board of examiners at various times in the interests of my clients. I know Mr. Fryer, the chairman of the board of examiners. I have

known him slightly for some years. I have not had dealings directly with him in his official capacity. I received this letter, signed William J. Fryer, and dated June 11, 1895. A day or two previous to that I received a letter introducing a representative of J. McMillan & Company, but which was brought into my private office. At some little inconvenience I went out to receive the visitor and received this letter of introduction. It was signed by Mr. Fryer. As I had not seen him for some time previously, I did not recollect his name, and inquired of my visitor who he might be, in order that I might identify to my mind the person writing the letter, and any acquaintance I might have. He seemed to take considerable offense at this and left the office. Two or three days subsequently I received this letter. I am not aware that at that time I had any matter pending before Mr. Fryer's board. At that time I had not received any demand of any kind from Mr. Fryer; not the slightest. The letter stated that Mr. Fryer desired me to give him an opportunity of estimating in my office, or something to that effect. This gentleman who brought a letter from Mr. Fryer introducing him had come for the purpose of having me to give Mr. Fryer an opportunity of estimating for some work in my office. Mr. Fryer was in the board of examiners at that time.

Mr. Moss—I will read this letter:

“NEW YORK, *June 11, 1895.*

“C. C. HAIGHT, Esq., 111 *Broadway, City:*

“Dear Sir—At the request of Mr. Young, of the firm of Samuel McMillan & Company, I gave him a letter of introduction to you and he duly presented the same. Mr. Young told me after seeing you that you did not seem to know who I was, and made inquiries as to what my business was, and so on. I write now to say that perhaps it may turn out at some future day that you will know who I am. You may sometime have something else similar to your club building alterations on, I think it was Pine street, and something else akin to your American Theatre case, etc. In these cases that I have referred to, what I did was really done in Mr. Diamond's interest; but inasmuch as I had to visit your office, and I think, too, at a request contained in a letter from you, and our

conferences were of a very friendly nature, I thought that it would not be very much out of the way for me to give a letter of introduction to the partner of a gentleman who has done you a favor, although you may not know it as well as myself. Had I supposed that you would look upon me as a stranger, I would not have ventured to have given the letter in question, and under the circumstances I regret having done so. As it has turned out, it may be just as well, and if it should ever happen again that you need my help, it would be necessary for you to bring a letter of introduction yourself to me."

This letter is written on the heading, printed, of "The New York Building and Land Appraisement Company, 104 Havemeyer Building," and above it are printed these words: "Samuel McMillan, president; Cornelius O'Reilly, vice-president; William J. Fryer, secretary and treasurer; trustees: Samuel McMillan, vice-president Mutual bank, member of Real Estate Exchange, builder, No. 327 West Forty-second street; Thomas J. Brady, superintendent of buildings, department of buildings, 220 Fourth avenue; Cornelius O'Reilly, architect and builder, 125 East Forty-fourth street, member of the New York State building law commission; Warren A. Conover, Postal building, Broadway and Murray street; William J. Fryer, chairman of the New York State building law commission, architect and engineer, No. 19 Broadway; John W. Murray, vice-president of the German-American Insurance Company, No. 115 Broadway, vice-president of the Title Guarantee and Trust Company, 55 Liberty street." I paid very little attention to that letter. I assumed that some threat was intended. I recognize in these names members of the board of examiners, Mr. McMillan, Mr. Brady, Mr. O'Reilly, Mr. Conover and Mr. Fryer are all members of that board which passes upon the plans of architects and builders. I notice this language. "I write now to say that perhaps it may turn out at some future day that you will know who I am. You may sometime have something else similar to your club building alteration on Pine street, and something else akin to your American Theatre case." I think that could not have reference, that threat, to anything except the fact that in an official capacity Mr. Fryer might have to pass upon my work or my plans. Mr. Fryer referred to the club alteration



on Pine street. Plans had been filed with the department of buildings for adding an additional story to the Down Town Association building on Pine street, and the plans were then in the department, and it was a question of the method of construction. The law was somewhat vague, and I believe, when Mr. Fryer called at my office with Mr. Diamond, that I said something to him about it, asking what the ruling of the department or the board of examiners would be under certain conditions, the plans having been filed. I am not sure whether Diamond was supplying the iron work for this building or not. The contractor was doing a large amount of work in my office at that time. Diamond is an iron contractor. In the case of the American Theatre, which is mentioned in this letter, it was the first theatre built under the new law providing certain fireproofing requirements, and as the law was quite vague, and I desired to expedite the passage of the plans through the department as rapidly as possible, I was endeavoring to ascertain what the board of examiners, if these matters were referred to them would rule, my desire being to expedite the work. I mentioned this to Mr. Diamond, and he stated that his friend Mr. Fryer would be very glad to give me the information, if he could, and at his own suggestion Mr. Fryer called at my office; probably at the same time the plans of the Down Town Association were there, where there was a question which would probably or had been referred to that same committee. I was very much indebted for the trouble which he took, and I had no intention to show him any discourtesy two or three years later, when I received this letter in question. Then Mr. Diamond suggested that he would ask Mr. Fryer to call on me and discuss the plans of the American Theatre, the first theatre built under the new fireproofing laws. Mr. Fryer was then an official, namely, a member of the board of examiners. The purpose was to discuss this important and interesting new matter coming up under a new law. I did have some conversation with him. It was simply, as I understood it, that Mr. Diamond undertook to obtain from an official of the board of examiners, privately, what would be the probable ruling

in the matter. In other words, I, who was undertaking and putting my money and my client's money into a building, desired to get the opinion of the persons who were to pass on those plans as quickly as possible. The plans were made at that time, but there were certain questions as to change of construction. It was a question of the interpretation of the law, which had not been passed upon. Mr. Fryer did not make any demand on me in connection with this consultation that he had, not at all at that time. I understood it was entirely friendly. He did make a demand afterwards. Subsequent to this, a year or two later, I was called before the investigating committee of the tax department, somewhat unexpectedly, and was requested to state matters in connection with this letter which had been shown to a friend of mine, and passed on. After my testifying before this commission, and presenting this letter, about a month later, I received a bill from Mr. Fryer for services rendered in connection with this work two or three years previous, the American Theatre. The amount of the bill, I think, was \$100. I think I have the bill.

(The witness handed a paper to Mr. Moss.)

Mr. Moss (reading)—“Nineteen Broadway, New York, February 17, 1896. Charles C. Haight, architect, 111 Broadway, to William J. Fryer, Dr. Consulting architect and engineer. 1892, August 23: For professional services in the matter of proposed alterations to provide roof garden, etc., on Broadway Theatre, southwest corner Forty-first street and Broadway, \$100.00.” The bill is dated, 1896, and the item is dated 1892.

The bill is marked “Exhibit N.”

I did not pay this bill. I think Mr. Fryer did not call on me to get payment. I received a letter from his lawyer. I think I have that letter.

(The witness handed the letter to Mr. Moss.)

The letter is marked “Exhibit O.”

Mr. Moss (reading)—

“OTTOBERG, JENKS & SPRING,  
“ATTORNEYS AND COUNSELORS AT LAW,  
“280 Broadway, Stewart Building,

“NEW YORK, *March 20, 1896.*

“CHARLES C. HAIGHT, Esq., *Architect, etc., 111 Broadway, New York City:*

“Dear Sir—We have had placed in our hands for immediate collection, by our client, Mr. William J. Fryer, a claim against you for \$100 for professional services rendered. Unless this claim is paid to us at our office, on or before the 23rd inst., we are instructed to take such measures as the law allows to enforce collection.

“Yours very truly,  
“OTTOBERG, JENKS & SPRING.”

I referred the letter to my counsel, and asked his advice, stating that I was perfectly ready to pay it if he considered it was a proper claim. He advised me to contest the bill. The case was tried, and decided in my favor. That case was tried, I think it was—what is the date of the bill?

Mr. Moss—The date of the bill is February 17, 1896.

A. It was the latter part of that year, I think. I don't remember. It was tried in a district court, Fifty-seventh street, near Eighth avenue.

Mr. Moss—No, that would be Fifty-fourth street.

The Witness—Fifty-fourth street. I contested the claim upon the ground I have stated here to-day. I have had no other dealings with Mr. Fryer, than what I have just stated, no personal ones.

Q. Is it not a fact that it is generally recognized in the profession of architects and among reputable builders generally that it is difficult to get matters through the building department and the board of examiners, in the ordinary straight out and out business ways? A. At times it is very difficult.

Q. And you have found, or it is the general impression among your fraternity and profession, that the board does not yield to

the ordinary methods of presenting a case, but there have to be some indirect methods affecting their judgment? A. Not to my knowledge.

Q. But is it not the general rumor among the profession that you represent? A. There is an impression.

Q. There is that impression, and has been for some years, has it not? A. More or less, yes, sir.

Q. This board of examiners is substantially the same board that has been in existence since the law was passed, is it not—substantially? A. I think so, yes, sir.

The Chairman—When was that law passed?

A. I think it was in 1892. The law contains many amendments. I don't remember the dates. It was in the Consolidation Act of 1885. Mr. Fryer was a member of the board of examiners at the time he called on me in 1892.

By Mr. O'Sullivan:

Q. May I be permitted to ask the witness one question. The matters that you have testified to here, relating to this letter of introduction. The claim made upon you by Mr. Fryer, and the other matters that Mr. Moss examined you on, dealt with the period between 1892 and 1896? A. Yes, sir.

By the Chairman:

Q. Do you know how the board of examiners is selected? A. The board of examiners, the individual members, are nominated by different societies in the city of New York, and different organizations. I think the fire department is represented by its chief. The Society of Architects has a representative. The iron organization—I do not remember the exact title of it—is also represented, and so on.

The Witness—The personnel of the board is now as follows—  
Mr. Moss—That was in 1897.

The Witness—February 4, 1897.



Mr. O'Sullivan—That is the 1896 and 1897 board, and it was under Mr. Strong that is described there.

The Witness—Stevenson Constable, Superintendent of Buildings; Napoleon LeBrun, from the New York Chapter of the American Institute of Architects; Warren A. Conover, from the Mechanics' and Traders' Exchange; Edward Dart, from the Mechanics' and Traders' Exchange; Samuel McMillan, from the Real Estate Exchange; William J. Fryer, from the Architectural Iron Association; Cornelius O'Reilly, from the Builders' Association; F. C. Moore, from the Underwriters' Association, and Hugh Bonner, Chief of the Fire Department.

By Mr. Moss:

Q. And at the present time, instead of Mr. Constable is Mr. Brady, the present superintendent of buildings? A. Mr. Brady.

By the Chairman:

Q. Do I understand that those same persons whose names are given there, are the same persons who organized this construction company, or composed this company whose letter head you read—this letter to Mr. Haight?

Mr. Moss—I will read from this list the members of the board of examiners who appear on the letter heading of the New York Building and Land Appraisement Company. They are: "Warren A. Conover, Samuel McMillan, William J. Fryer, Cornelius O'Reilly," and at the present time Mr. Brady, the superintendent of buildings.

Mr. O'Sullivan—Is Mr. Brady's name on that letter heading?

Mr. Moss—Yes.

By Mr. Hoffman:

Q. Did you know the president of that company, Mr. McMillan? A. Very slightly. I have met him on several occasions.

Q. Is that the same gentleman who was president of the board from 1895 to 1898? A. I think so.

Q. Under Mayor Strong? A. I think so.

THOMAS L. FEITNER, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am president of the department of taxes and assessments. I received a subpoena to bring the notices of personal assessments, and the records of personal assessments of Richard Croker, for 1897, 1898 and 1899. I have looked through our records for such notices and papers; I have not found any for 1897, 1898 and 1899. I did not find any for 1896; I did find one for 1895, that is the affidavit.

The affidavit is marked "Exhibit P."

From my examination of the records of the department it appears that Mr. Croker was not assessed for personal taxes in 1896, 1897, 1898 and 1899. He has not been required to appear at our office with reference to his personal property; I should judge not, from the fact that he is not on the list. I only speak for the last year, and this, so far.

Mr. Moss—I read the essential portions of this paper:

DEPARTMENT OF TAXES AND ASSESSMENTS,  
STEWART BUILDING, 280 BROADWAY,  
NEW YORK, *January 14, 1895.*

"RICHARD CROKER, 111 *Broadway*:

"You are hereby notified that your personal estate for 1895 is assessed at \$25,000, exclusive of bank stock, and that the same, if erroneous, must be corrected before the commissioners on or before the 30th day of April next, or it will be confirmed at that amount, from which there shall be no appeal.

"By order of the commissioners of taxes and assessments.

JANUARY 17, 1895.

"I hereby swear that on the second Monday of January last the value of my personal property, exclusive of bank shares, subject to taxation, did not exceed \$0.

"RICHARD CROKER."

Witness—There is no jurat there? The marks upon the paper indicate that this was actually sworn to before Commissioner

Barker. The other figures on the margin indicate as follows: He owned real estate. He had no personal property, which means subject to taxation. His real estate mortgages were \$125,000; and it is signed—also endorsed by Mr. Blumenthal, the action of one commissioner not being sufficient, they both having to concur. At that time it appears from this record that he had real estate which was subject to mortgages, amounting to \$125,000, but he had no personal property that was subject to taxation.

Q. Do you know whether the subject of Mr. Croker's personal property has been considered in your department since you have been the head of it? A. Not specially, that I know of. It goes in with the rest of the community, in that respect.

Mr. O'Sullivan—I would like to add one question. The document which you handed to Mr. Moss and which he returned to you—that swearing was done before Mr. Barker who was your predecessor?

The Witness—Yes, sir.

Mr. O'Sullivan—Under Mayor Strong?

The Witness—Yes, sir. It is in 1895.

WILLIAM J. FRYER, being recalled and examined, testified as follows:

Examined by Mr. Moss:

I am a member of the New York Building and Land Appraisal Company. This is a circular of the company; not a circular that is being used at the present time. We discontinued the use of that circular a long time ago. Most of those gentlemen are not now connected with the company, nor have been for a long while. Their names are not on the office door still; most of them were never on. No names were ever taken off of the door. Mr. McMillan, Mr. O'Reilly and myself are the only ones left of that lot of names, that are now connected with the company. Mr. Brady went out two or three years ago. Mr. O'Reilly is still connected with us. Mr. Conover went out some—oh, some—

thing like two years ago. I don't exactly recollect. We may have some circulars now—prospectuses or advertising circulars. We may have, without any names on. We may have; I won't be sure. The company is still doing business. I never was chairman of the board of examiners. I am still a member of it. The chairman is the commissioner or superintendent of buildings, ex officio. I have been a member of that board of examiners more than ten years. The board has been in existence some twenty-eight or thirty years, about twenty-eight years. I have been there something over ten. I am also a member of what is called the building code commission. I was appointed by the present municipal assembly. Mr. McMillan is not a member of that board. Mr. Brady is. He is the commissioner of buildings. Mr. Brady is chairman of the board. Mr. O'Reilly is a member of the building code commission. Mr. Conover is not. No other of the members of the board of examiners are members of the building code commission. I never said I was desirous of being made the chairman of the building code commission, never said so to any one. There is not in my possession any draft of any provisions of that code. The code commission have considered certain of the sections. We are taking up the sections of the existing law, section by section, and amending them and extending them. A certain number of the sections have been tentatively adopted. We have had some public hearings at which no testimony was taken, at which no arguments were made upon the form of sections. We have tentatively adopted some—I think something like forty sections, something like that; I won't be sure. It is our intention to hold public sessions, to take testimony and have expert opinion given to us before we adopt this code or any part of it. We have marked such a program, yes, sir; that is so with reference to every department of that code; it is to be hoped so, yes, sir. I hope so. It is intended to give to the people interested in buildings an opportunity to discuss the whole field of building operations before that code is adopted. That is our intention; and we propose to give hearings on cer-



tain of the subjects, separate from each other; for instance, fire proofing. We are going to give that an especial amount of attention. We have so stated at a public meeting, and undoubtedly will. We have already been addressed on behalf of some of the fireproofing interests at the public hearing—we had one public hearing in the council chamber in the city hall, and representatives of different interests at that time made requests for a special hearing, and the chairman promised every one who made requests that their requests should be granted. That is the program we have been committed to. Mr. McCann appeared before our board on behalf of the fireproofing interests, or some of them, at that public hearing only. He was not consulted with or made appeals of any kind to our board with reference to fireproofing interests, that I know of. I am not aware of anything that he has done as attorney for any of the fireproofing interest.

Q. It has been testified that he accepted retainers for some of the fireproofing interests, to a considerable amount, to represent them before your body. Have you seen or heard of anything showing what he is doing for those retainers? A. No.

Q. Not a thing? A. Not a thing. The Record and Guide is the recognized organ of the building trade. This is my advertisement in the Record and Guide. That has been standing several years; two or three or four years; four or five years. It appears every week in the Record and Guide; a standing advertisement.

Mr. Moss—I will read it: “William J. Fryer, telephone 73 Cortlandt, 105 Havemeyer Building; consulting architect and engineer. Offers his services to owners, architects, builders, lawyers and others in any capacity where a knowledge of building construction and of the laws relating to buildings may be desired. Charges high, services good.”

Witness—I examine this paper pretty carefully, and keep myself posted about the operations and about people that advertise in it. There are about five or six hundred architects in the borough of Manhattan, I think; I can't tell how many. It is something like 800 in the entire territory of Greater New York. I

am not sure that I can show you the advertisement of any other architect in this copy of the Record. Architects do not advertise, as a rule.

Q. And there is not in this copy of the Record the advertisement of any other architect except yours, is there? A. I won't be sure.

Q. But probably not. You may look at it? A. There may be. At any rate, there would only be one or two.

Q. I have looked and I have not discovered any; and if there are any I should like to have you point them out, if you desire to. Is it not looked upon in the architectural profession very much as lawyers look on the matter of advertising? It is not considered just according to the etiquette of the profession, is it? A. That is right.

Q. And first class architects look upon advertising as a rather reprehensible method of getting business, do they not? A. It is not customary to advertise.

Q. Why is it not customary? A. I suppose they desire to place themselves on the same plane as a doctor or a lawyer or other professional men.

Q. Do you mean to say that the architect who advertises puts himself relatively on the same professional plane as the physician or the lawyer who advertises? A. A great many architects do advertise in certain kinds of publications. There is an architect directory, with architects——

Mr. Moss—I mean in papers of general circulation like this?

The Witness—Now, for myself, I am advertising there as a consulting architect. I never have advertised as an architect. I am an architect; was educated as such, practiced as such. I have never advertised as an architect. I advertise in that advertisement as a consulting architect and engineer. I don't think there is the advertisement of any other consulting architect and engineer in this paper. There are others of that class besides myself, in this city, but very few. There are plenty of engineers who advertise as consulting engineers; very few architects. Con-

sulting engineers advertise, but consulting architects do not, as a rule. There are very few.

Q. What is the difference between an architect and a consulting architect? A. Why, a consulting architect can, with propriety, help out an architect, a gentleman who has the plans to prepare for a building and superintend that building. That is, he can advise the architect as to the best way of getting around architectural difficulties; and the best way of presenting his architectural plan in such a way as will commend itself to those who have to pass upon it.

Q. And you are one of the board who has to pass upon the plans of architects, are you not? A. Not necessarily.

Q. Well, you are, are you not? A. Not necessarily on those plans at all.

Q. But you are a member of the board that passes upon the plans of architects, are you not? A. That board only passes on plans that do not comply with the requirements of the law. There are plans come into the building department that fully comply with the law, and the board of examiners never hears of that class of plans.

Q. But they do hear of the class of plans about which there is some doubt, do they not? A. Yes, sir.

Q. Exactly. And where there is discretionary power in the department—they hear of those, do they not? A. Not where the discretionary power is lodged in the commissioner of buildings. We hear nothing about that.

Q. If the commissioner of buildings does not exercise that discretionary power, and it passes up to the higher body, as a matter of judgment, then it gets to your body, does it not? A. Not necessarily. The law distinctly provides for the class of plans that shall be acted on by this board of examiners.

Q. Oh, yes, I understand that; but these difficult cases come to your board when the superintendent of buildings does not approve them, do they not? A. Certain classes do, yes, sir.

Q. Certain classes of them do. Some of them do, at any rate? A. Yes, sir.

Q. And your board meets once a week, does it not? A. Yes, sir.

Q. And its whole business is the discussion of matters where the superintendent of buildings has not approved? Is not that so? A. No, sir, not entirely.

Q. There are some fire shutters and matters—— A. That is in part.

Q. But there are some fire shutter matters that come to you directly, are there not? A. That is another part only; yes sir. Our meeting last each week some three hours every week. I, as a member of that board, am sitting for three hours, passing, at least, in part, upon doubtful questions of construction and planning, and our decision is final. First, a plan goes to the superintendent of buildings, and if he does not approve it, then the owner or the architect may take what is substantially an appeal to our board, in some cases. And these meetings, three hours a week, deal largely with those cases that have not been passed by the superintendent of buildings, and I sit on that board. And having been on that board for ten or twelve years, and having made a special study of building matters, I think my opinion is as valuable as that of any other man there. That is why I say "Services, good, charges high." A further explanation: The idea of putting that wording in the advertisement at the time was that I had commenced to get tired of people coming to me to get information about this law and about construction, and in many cases not even saying "Thank you," for information that has taken me a great many years to acquire. And I concluded to have a standing advertisement that would scare off as many as possible, who proposed to ask me for my opinions free gratis.

Q. If you should not advertise, then you would scare them all off, would you not, and you would be so much greater relieved of those impositions upon your time? A. No, sir.

Q. Has that ever occurred to you? A. No, sir.

Q. Why do you want to scare these people off? As I understood you, it was because they had the habit of coming to you



and consulting you and getting your opinion free gratis, for nothing? A. Yes, sir.

Q. That is why you wanted to scare them off? A. That is the idea.

Q. You only wanted the people to come to you who would pay you for your opinion? A. That is the only class that I want to come to me; yes, sir.

Q. Did you ever see an advertisement of a physician saying "Charges high, services good"? A. I never did. That advertisement perhaps is unique in itself. I never saw anything like it before. That was my own personal idea, and it was so good that I have kept it going for all these years. It has attracted a great deal of attention, first and last. Perhaps there is no other advertisement like it in the United States. On Tuesday last we had seventy-seven cases before the board, and I exercised my judgment on each one of those seventy-seven cases, as a member, I did; yes, sir. And in these seventy-seven cases there were presented architectural difficulties, engineering problems, in many of those cases.

Q. If you attend to those matters faithfully and put your judgment upon them, how do you find time to render these good services for these high charges? A. Why, sir, my time on the cases that come before the board is only during the hours that the board is in session. On last Tuesday's meeting the number was an unusually high one. We run forty, fifty, sometimes as low as thirty; but there is never a thought given to them by me except during the hours when we are in session.

Q. Let us see, then. You say that in those cases that are presented to your board you never give them a thought except in the hours, and perhaps in the moment, when they are presented to you? A. That is right.

Q. But, my dear sir, these are the cases which are to deal with the safety of people living in the houses in New York city? A. Yes, sir.

Q. And they deal with engineering problems, do they not? Matters of strain, matters of weight, matters of fireproofing, mat-

ters of exempting people from the obligation to put up fire shutters and fire escapes, and such things as that—do they not, all?

A. In part that is so, and not so.

Q. All such matters? A. The board is not troubled with the question of strength, as the papers—before they are placed before the board—are certified to by the department engineers that the proposed construction is amply strong.

Q. How many plans or cases have passed through the hands of your board within the last four years, of buildings that have fallen down? A. I think not a single one.

Q. Are you sure of that? A. I am pretty sure of that; yes.

Q. Then in the case of every building that has fallen down in the city of New York during the last four years the plans have been ultimately, finally approved by the superintendent of buildings? Do you mean to say that? A. Yes, sir. I mean to say, like the case of the Ireland building on West Broadway. The plans were presented absolutely in accordance with the requirements of law. In carrying out that work they built, for example, one pier, a center pier, there, over an old well.

Q. Is that true? I know that has been stated, but do you know whether that is true? A. Yes, sir.

Q. Do you not know that a pier was set on a piece of blue stone? And do you not know that bluestone is a treacherous and slippery foundation for a pier or for an iron column? A. The fault was—the ring of an old well that was partly protected—

Q. Did you see that old well there? A. Yes, sir.

Q. With the column over it? A. Yes, sir; where the pier was. That brought the building down. So that they—

Q. Did you see the piece of bluestone upon which the pier or column stood; also a slippery— A. I think so. It was there day after day during the opening up of the fallen work.

Q. Is it not a fact that more buildings have fallen down within the last four years, within the last five years, than within the ten years previously? A. I think not.

Q. I would like to have you make up from your official record a table of the buildings that have fallen down, and the dates

when they have done so? A. Pardon me: I have nothing more to do with the official records of the department than you have. I am in no way connected with the department of buildings, except to meet in the department of buildings as a member of the board of examiners, once a week. I would have no power to comply with your request. We were in session last Tuesday something over three hours. It was something after six o'clock when we got through, and we had seventy-seven cases. Most of them—the most of them were very simple cases. The bulk of them are of one kind of cases. I don't remember whether we had a single fireproofing case at that meeting; to the best of my recollection, no fireproofing case. My impression is there was a school plan there for the adding of an extension to that building. I won't be sure. I can't recollect whether we had applications from Mr. Snyder, the architect of the building department, the week before. He has made applications in reference to several schools lately, which were practically asking that the live weight on the floors should be 100 pounds, and those have been granted. That has been our custom; 100 pounds to the superficial foot.

Q. What does the law say about buildings for assemblies, like public schools? What is the legal weight that must be sustained? A. The law is a little vague, but the department of buildings has a rule that it is a hundred and twenty pounds. I might remark that it is the intent in the new law to reduce that to 60 pounds. That is the modern requirement—not to exceed 75 pounds. That is according to the best engineering requirements of the day. I do not know to-day that iron columns in the city of New York are carrying thirty per cent. more strain than they are allowed to do in Boston. I don't know that for a fact. I do not know it by common reputation. I have not heard that before. No, I never did. I have expressed my individual opinion, and I am sure that the building code commission will place the new limit at 75 pounds at the outside. I have never heard of public schools being erected in this city with cracked columns. Those things have never come to my attention.

The Chairman—There perhaps may be a misunderstanding between you and the witness as to the carrying weight. I do not know which is correct. Do you mean in the new code to reduce the amount—the minimum?

The Witness—Yes, sir.

The Chairman—That is, that each square foot shall not be allowed to carry more than seventy-five?

The Witness—That is right; to make provision for a live load, that whatever comes into the building, children or goods or anything else.

The Chairman—It shall not exceed that?

The Witness—Yes, sir; that you must have it to carry not less—reverse it a little—to carry not less than seventy-five pounds.

The Chairman—Yes, that is all right.

By Mr. Moss:

Q. It may be more than seventy-five? A. Oh, anyone can. The law states the minimum. Anybody can build as much stronger as they please, of course, but to make it stronger requires putting in heavier iron. Iron columns costs money, and the people do not put in any more costly columns generally than the law requires, and so, when we state the minimum, that is practically what will be used. One complaint against the existing law is that the requirements have been too onerous; that they have got to be let up; and nearly all the new laws of the other cities have materially reduced the the requirements of the New York law. I am not at all interested in iron work; I have been. I was engaged in the manufacture of architectural work. I represent the Society of the Architectural Iron Manufacturers. I am the secretary of that association, and I believe that the building code should reduce the burden that is put upon the iron part of the building.

Q. Is your society really a good live society now? A. The best men in the city engaged in that line of business, yes, sir; we



meet once a month. We have a membership of about forty, that is about all. That is about all there are in the city of New York. Sometimes fifteen of those forty attend the monthly meetings; at the last meeting we had, I think, twenty-four; sometimes ten, sometimes not a quorum. I don't know whether the Architectural Iron Association that I represent knows that I intend to recommend this reduction of the carrying power. I may have discussed it with a member of my association; I may have, with some of them.

Q. Is it not your duty, your moral duty, in the board of examiners, in the building commission, to represent the views of the members of your society? A. I am always very glad to do that, yes, sir.

Q. And you are in the board—in both boards—so far as you can do so, to provide for their interests, are you not? A. As far as I can properly do so, yes, sir.

Q. And to relieve them from what you may deem to be undue burdens? A. Yes, sir.

Q. Coming back to this matter of reduction of the requirements in public schools. You said the law was vague. Let me read to you section 483 of the building laws: "In every building used as a dwelling house, tenement house, apartment house or hotel, each floor shall be of sufficient strength in all its parts to bear safely upon every superficial foot of its surface seventy pounds, and if to be used for office purposes not less than 100 pounds upon each superficial foot. If to be used as a place of public assembly, 120 pounds." Now, you class the schools, for the purposes of your business, as places of public assembly, do you not? A. There is where the doubt comes in—whether it is a public assembly like a theatre or whether a school which is occupied with no heavier weight than an ordinary dwelling—whether a school should be classed as a public assembly.

Q. Why do you say that a school has no more weight upon it than an ordinary dwelling? A. Because it is occupied by children.

Q. And teachers? A. And teachers, too.

Q. And desks and books? A. And large rooms.

Q. And pianos? A. Yes, sir.

Q. Large rooms? A. Yes, sir.

Q. You know that children march in those buildings, do you not? A. Yes, sir.

Q. And as an engineer, do you know the effect upon structures of rhythmic movements of large numbers of people? A. Surely.

Q. Do you know that when armies march across bridges, they break step? A. Yes, sir.

Q. And you know that when the children march in the public schools they keep step, do you not? A. Yes, sir.

Q. And there are lines and columns of them moving in and out, and all over the floor? A. Yes, sir.

Q. So that it is more than a public assembly, when it comes to the question of public safety, is it not? A. One hundred pounds I still insist——

Q. Never mind that. Yes? A. Yes, sir.

Q. And do you know how many children on an average are taken care of in one of our large public schools—these new buildings that are now being erected? A. A goodly number, yes, sir.

Q. How many? A. I would not venture to guess.

Q. Two thousand? Twenty-five hundred? A. I think not.

Q. Not as much as that? A. There may be. I would not have guessed as high.

Q. Twenty-five hundred is a reasonable estimate? And you mean to say that children gathered in that large number in the public schools, compelled by law to go to them, moving about together, marching, etc.—that those buildings should be considered in the same light as dwelling-houses? A. No, sir; dwelling-houses will be provided for at considerably less.

Q. I know; but you said the strain would not be more than that on dwelling-houses. Did you make a mistake? A. Well, no; I didn't make any mistake. The weight, I said, on the floor.

Q. The weight on the floor is not more in dwelling-houses? Is that it? A. Substantially the same. Then remember that whatever weight is on the floor——

Q. Cases are few where the father and mother and the children form line and march around in the dwelling-house? A. But you don't suppose, now, that this Building Code Commission is going to reduce the proper weight on a floor, less than the best engineering judgment provides.

Q. You said you treat these public schools as though they are not within this provision that covers places for public assembly. Then why is it necessary for Mr. Snyder to file petitions to be exempted from the operation of that section? A. Because the department of buildings rules that it is a public assembly building; and, therefore, to get relief from that ruling, a petition to that effect has to come before the board of examiners for action. I know in public schools there are frequently given exhibitions, to which the parents and friends of the pupils come, to such an extent that the floors are overcrowded, and people have to stay out in the halls. And I know that the board of education gives free popular lectures upon scientific and other subjects, to which are invited, night after night, the multitudes in the crowded parts of the city—stereopticon entertainments and all such things as that. The school board considers that our determination that 100 pounds and no less shall be required for a school building is entirely too high, except in their assembly rooms proper. They think that we require an undue strength in the major part of a school building.

Q. I know; but if the case of public schools is so much within that law that it requires a petition to be exempted from the requirements of 120 pounds, what authority has your board for going behind the law? Where is the discretionary power. A. The law don't say that the school building shall be 120 pounds. There is where the difference of opinion comes in.

Q. I know; but if you treat it as coming within that designation, as a place for public assemblies, what authority have you for giving the relief that is asked for? A. That is what this board is provided for.

Q. To go behind the law? A. To use its discretion in just such matters as that.

Q. Where the provision is absolute? A. The provision is not absolute.

Q. And people go to you and consult you and get your engineering advice about such matters as may come before you, for your high charges, do they not? A. No, they do not; but they can do so, if they please.

Q. You charged Mr. Haight \$150 for your opinion about his American Theatre matter, did you not? A. I never charged Mr. Haight one dollar for his American Theatre. He got things mixed up, and in his statement he told that which is not true.

Q. That bill said it was for advice in connection with the putting of the roof garden on the American Theatre—— A. No, sir; pardon me. If you will read that, it is on the Broadway Theatre, Broadway and Forty-first street; a case which never came before the board of examiners, and which, under my advice, he did not attempt to do. Now, may I explain this Mr. Haight's case?

Mr. Moss—I will give you an opportunity after we get off of this public school matter.

The Witness—If you please.

Mr. Moss—For you are entitled to that opportunity, surely.

The Witness—Thank you.

Q. Some of the matters that you pass upon are of applications of architects for permission to put the J. W. Rapp system of fire proofing into buildings, are they not? A. Yes.

Q. And the J. W. Rapp system used to be turned down, did it not? A. No, sir. Some cases refused, other cases granted, according to the best judgment of the board in regard to the building in which it was to be or was supposed to be used.

Q. In how many cases in construction above the first story did your board grant permission, before the last three months? A. A very great many. There are no applications that come before us, by owners, to be relieved from the necessity of putting fire escapes on their apartment houses. Not one. That power rests solely with the commissioner of buildings. The board of exam-



iners absolutely have nothing to do with fire escapes. Never have done so; never, in the history of the department.

Q. I want to ask you, of how many important buildings have you been the architect in the last ten years? A. Quite a number.

Q. Which are they? A. Oh, I can't recollect.

Q. Can you not recall any important building in this or any other city, of which you have been the architect, in the last ten years? A. This past year, yes, sir. This past year, for example: One right here, just nicely finished. There is the Dietz building, a nine-story fireproof building, 75x125, or 80x125; a nine-story fireproof building; a store building, No. 11 West Thirtieth street. It is a five or six story building, is of ordinary width, 25 feet; I think it is twenty-five feet. A single lot. But I am continuously busy. I can't remember what other buildings. I would have to have my list.

Q. Yes; but have you within the last ten years been the architect for ten important buildings in this city? A. I have never built a skyscraper yet.

Mr. Moss—I said important building.

The Witness—It depends on what is an important building. I can't remember. I would have to look.

Q. Can you remember any more than those two buildings that you have mentioned as being superintended by you as architect, for the last ten years? A. There has never been a year yet that I have not built a number of buildings, and I have been building buildings continuously in this city for twenty-five years as an architect.

Mr. Moss—I am speaking of an architect.

The Witness—Yes, sir; as architect.

Q. In the last ten years? A. Yes, sir. For twenty-five years, right along.

Q. Have you been doing it for ten years? A. Yes, sir.

Q. Have you been architect for ten buildings in ten years? A. Yes, sir; more, too.

Q. More than ten buildings? A. Yes, sir.

Q. How many more, about? A. Fifty.

Q. Fifty in the last ten years? A. I judge—or perhaps more.

Q. Have you been the architect for ten buildings in the last ten years, that occupy as much as two lots of ground? A. I can't recollect. I would have to have my list.

Q. Would it in your judgment amount to ten within the last ten years, that have required as much as two lots of ground? A. Yes, sir.

Q. Two or more? A. Yes, sir.

Q. There would be ten, would there? A. Yes, sir.

Q. In those cases were you the architect or consulting architect? A. The architect.

Q. The architect? A. Yes, sir.

Q. In those ten years, have you had any plan of yours rejected by the superintendent of the building department? A. I might qualify that by saying—yes.

Q. Qualify what? A. Yes, sir.

Q. What? Why do you call that a qualification? That is a direct answer? A. Because the majority—perhaps the majority of plans filed in the building department are first rejected by the commissioner or by the department; sometimes for no ground. They misunderstand the applications. So that it is a common thing for the applications to be first rejected, and then you amend them in accordance with the requirements of the department, and eventually you get them through. I am speaking of things that do not necessarily come before the board of examiners. You have to amend these applications after they are rejected, to meet the ideas of the department and then you get your permit when you finally get that straightened out. I have been through that.

By the Chairman:

Q. You stated in your answer, rejected for no ground. Do you mean—— A. From the standpoint of the applicant, at any rate. For instance, they will misunderstand something.

By Mr. Moss:

Q. Who will? A. The examiners, the department.

By the Chairman:

Q. Do you mean to say they are not competent judges to pass upon these plans that are presented to them? A. As a rule, they are competent, but they will sometimes misunderstand what an applicant wants, or what he intends to do, and then the common practice is to reject them. That brings the architect up to the office to make his amendments and his explanations and get the thing straightened out.

By Mr. Moss:

Q. You say that is so in the majority of cases, do you? A. I think in the majority of cases, yes, sir.

Q. Were a majority of your buildings rejected in the first instance? A. I won't say that they were, but I have been through the same mill as others have.

Q. And that even though your ability and your professional skill, your experience, justified this advertisement of yours? A. Yes, sir.

Q. And in those cases you think you were right? A. Yes.

Q. And the department was wrong, do you not? A. Yes, sir.

Q. How many such cases did you have? A. I can't recollect. I have had some. I have had such cases.

Q. Did you ever have to appeal from the decision of the superintendent of buildings?

The Witness—To the board of examiners?

Mr. Moss—To the board of examiners.

A. Yes, sir.

Q. When was that? A. Oh, a number of times.

Q. When was the last? A. I can't recollect.

Q. Was it within a year? A. I think so.

Q. What buildings? A. I am not sure.

Q. Was it within two years? A. I can't recollect.

Q. How did you vote on your own appeal? A. The law says that I shall not vote on any case in which I have an interest. The law makes that provision. You understand, Mr. Moss, that no member of that board of examiners is prohibited from carrying on his ordinary business, no matter what that business may be. He is entitled to carry that on.

By the Chairman:

Q. Do you think that is a wise provision of law? A. Yes, sir, because you are drafting this board of experts, for that is all that they are—you are drafting this board of experts from men who are in active business; not dead men, not men who from age or for some reason or other are out of business. These associations send this board of examiners the man from their association that they think is best qualified to be there, and therefore it is supposed that the board of examiners gets good men.

Q. What compensation does the board of examiners get? A. They are paid \$10 a meeting. Limited to weekly meetings, and limited to their attendance at that meeting.

By Mr. Moss:

Q. How can you, with your engineering ability and talent and skill, and advertising unique powers—how can you afford to devote practically a day each week for \$10? A. I am very glad to, because it is an education in itself.

Q. Oh! But then you only spend three minutes apiece on each case? A. Some take that.

Q. You never think about them except at the meetings. Do you study those cases? A. No, sir; but they make a lasting impression on one's mind, when the important features are being considered.

Q. How can they make a lasting impression on your mind when you cannot tell us the buildings that you have built—your own buildings? A. I can't remember.

Q. What cases that occurred last Tuesday made a lasting impression on your mind? A. Not a single one, so far as I recollect. There was no important case.



Q. What case of the week before that made a lasting impression on your mind? A. I can't tell you.

A. What case within a year made a lasting impression on your mind? A. I can't tell; but the consideration of those cases generally qualifies.

Q. Oh! Of course. What case that has occurred in the last year in your board has been the means of education to you? A. I don't know that any. I could not specify the time.

Q. I ask you again, how can a man of your great business and great ability afford to devote your time in that way for \$10 a week? A. In the same way that the representative of the Board of Underwriters, who comes to that board.

Q. Who is he? A. Mr. Moore.

Q. F. C. Moore? A. F. C. Moore, who is president of the largest fire insurance company of the United States. How can he afford to come there?

Q. We will find that out after a while, but we are trying to find out how you can afford to do it. Is it not a fact that your being in that board helps you to get business, under this advertisement? A. It may; incidentally, it may; yes, sir.

Q. In your case, then, your appeals are passed on by a board of one less in number than the board that passes usually upon the plans of men who are not in that board? A. That is right.

Q. So there is one less man to convince in your case than in the case of an outside architect? A. That is right.

Q. Do you consider that a help or a hindrance to your matters? A. Undoubtedly that is a help to me.

Q. And do not you suppose that when that board of examiners contains men with whom you have been associated for years and with whom you have business interests in this appraisal company, it may be quite difficult for them, on a matter of judgment, to decide against you? A. No, sir. If they knew me well they would have perhaps more confidence in my judgment.

Q. Somewhat prejudiced in your favor? A. There is no doubt about that. I am looking for business—for architectural business—and intend to. And if necessary I will present my own

appeals before the board of examiners of which I am a member. I consider that my right, absolutely. And I consider that that is a right which the building laws in their present form give me. I have not a degree as an engineer. I have not a degree as an architect. I was not graduated from any architectural or engineering school. I started in a very young man in an engineer's office, and later on in an architect's office.

Q. Now, will you kindly tell us in your own way, with your own coloring, what your experiences as an engineer and architect have been; that is, your preparatory experience? A. I have never been any other than in those lines in my life, from the time that I was 18 years of age. I started with Hackett of Albany as a civil engineer. I was then with Willard & Ogden, the oldest architects in Albany. I was draughtsman and superintendent of construction in the Jackson Architectural Iron Works for a few years. I went into business myself, and I have been in business for myself in the city of New York since 1869. That is thirty years.

Q. Do you ever talk with the Jackson architectural people now? I know them all very well indeed, yes, sir.

Q. And they put their construction in buildings that have to pass under your eye? A. They do not; no, sir.

Q. Never do? A. No, sir; have no occasion to.

Q. Do they not make iron or sell iron for buildings in the city of New York? A. Yes, sir; under an architect.

Mr. Moss—Of course.

The Witness—The contractor is——

Q. The contractor has, of course, to represent the building, but the contractor uses the iron of the Jackson Iron Works. A. In some cases.

Q. And those cases come to your attention, do they not? A. No, sir.

Q. Have they never come to your attention? A. It is difficult to answer that question.

Q. Why? A. I want to answer it. Because the applications to the board of examiners, for example, do not come from the contractors. They come from the architect of record. And although Jacksons, for example, might be the contractors for the building, that would not appear in any action——

Q. The iron may be in a building and you not know it? That is what you mean? A. Yes, sir; the same as Post or Cornell or any of the others.

Q. Why is it you prefer cast iron to steel in buildings? A. I do for certain purposes, and for certain other purposes, no. I prefer the iron for columns where those columns are to be buried in walls or buried out of sight. Then, in my own personal judgment, the only metal that should be used should be cast iron, and not wrought iron nor steel. Now, for other purposes, for girders, floor beams, a man would practically be a fool to use anything else than steel. I don't think I have ever passed upon cases where I have been consulted by architects. I am pretty sure, because I am careful, not to vote on anything that I have had anything to do with. I don't think I have ever voted against matters in the board of examiners where I have given my approval of them privately, and as consulting architect or engineer. If I had I would neither vote for nor against the case.

Q. Take this building on Elm street, the Jones building, the new building where the J. W. Rapp system of fire proofing was put it, and which was under consideration by the municipal authorities for the getting of offices. Were you not consulted and did you not give an opinion about that building, privately? A. I did. I gave an opinion that was intended to be used before the Comptroller as to the strength of the building and its good shape that it was in for city purposes, in case they concluded to rent it. I did give such an opinion, and I examined the building in advance of giving such a written opinion.

Q. And you considered at the time that the fireproof system in it was the J. W. Rapp system, did you not? A. No, sir, because it was in——

Q. Did you not know that it was? A. It was in, but the gentleman that I gave that letter to agreed to remove the Rapp floors.

Q. He did? A. You can send for him. I will give you his name and address.

Q. You gave an opinion that the building was all right, did you? A. Yes, sir.

Q. Did you put in any proviso in that opinion? A. No, sir, it was not necessary so far as——

Q. I know, but did you say a word to the Comptroller that your opinion was conditional upon the removing of that Rapp system? A. No.

Q. But you simply had a little private understanding with the owner? A. With the owner's representative.

Q. That he would have to remove that Rapp system? A. He agreed to. He didn't want it in. He wanted level ceilings. The Rapp system gives you arches.

Q. How did you know that he would do that? Did you have a bond from him? A. No, sir, I would take this gentleman's word for anything. I relied on it.

Q. But you approved the building as it stood, so far as the Comptroller was concerned? A. So far as my letter was concerned.

Q. You did not say anything to the Comptroller about the mental reservation? A. It was not necessary.

Q. Did you? A. No, I did not. There were to be lots of changes made in that building.

Q. How much money did you get for that opinion? A. Not one dollar.

Q. Why? A. For the reason that I did it as a matter of friendship to Mr. Thompson, the architect, who was expected to carry out that work. He never was given the work to do, and therefore I never rendered a bill.

Q. Why? Did you not charge a hundred and fifty dollars for your examination and opinion in the matter of that building? A. No, sir, I think not.



Q. To nobody? A. I think not.

Q. Are you sure? A. I am pretty sure.

Q. Why are you not absolutely sure about a thing like that?  
A. Now, I am absolutely sure that I never rendered a bill to Mr. Thompson.

Q. I am not saying that you rendered a bill to Mr. Thompson.  
A. Or to any one else.

Q. Did you not charge a hundred and fifty dollars? Did you not ask for a hundred and fifty dollars? A. I believe I stated to the agent—not to Mr. Thompson—that I would make him a charge, and I am not sure but what I told him some price. I forget whether it was a hundred and fifty dollars or \$250. I ought to charge him \$250 instead of a hundred and fifty dollars. But it is possible that I said I would make a charge in case——

Q. In case what? A. In case they rented the building.

Q. Then you were to get paid? A. Yes, sir. I am not sure that I put that——

Q. I guess you are pretty sure now, are you not? A. No, sir. Mr. Moss, I am perfectly willing to admit, if I could remember, that I had rendered a bill. Perfectly willing, I think I never did.

Q. I am not talking about your rendering a bill. I release you from that; but it was your intention to make a sort of contingent charge there. If the man rented his building on the strength of your approval, then, of course, he ought to pay you, and if he did not, on the score of old friendship, you would let it go. Was not that it? A. If you will allow me to explain: Mr. Thompson came to me saying that the owner's agents desired to get from him the opinion as to whether the building could be increased in height and how it could be adapted to office uses for the city; that they were going to make an effort to try and get the city to lease that building; that if the city did lease it, or would seriously consider it, they would then have him add the additional stories and make the changes; and Mr. Thompson came to me, requesting me to go and look at the building, and to pass my opinion upon it, and to give him a report that could be used for presentation to the comptroller. That is the history

of it. And I think he told me that he was not sure that it would go through, but if it did go through he would have it. I am not sure but what it was understood with Mr. Thompson that if it did go through and the work really got to him, that I should make a charge for my services. Now, if I could remember whether it was two hundred and fifty dollars or a hundred and fifty dollars, or whether there was any distinct arrangement, I would gladly tell you. There is nothing that I consider——

Q. Do you know how much a square foot the Jones people were charging or expected to charge for the rental of that building? A. No, sir; not at all.

Q. The fact that the J. W. Rapp system of fireproofing was in that building came to your mind sufficiently for you to exact a promise that it would be removed? A. When Mr. Thompson came to see me I knew that the Rapp floors in that building had been rejected. I told Mr. Thompson that the building was in disgrace; that there were those Rapp floors that had been put in without leave; and he said, "I will take those out. I don't want them in anyway. I want level ceilings, and I will take them all out and put in the usual flat arch system, as I want level ceilings"—the same as this ceiling is here.

Q. That is, the hollow tile ceiling? You say the building was disgraced? A. And there were other changes.

Q. You say the building was disgraced? A. Was in disgrace.

Q. Because it had the Rapp system? A. Because the Rapp system had been put in in violation of law without permission.

Q. Then it is a fact that the Rapp system was under condemnation, was it not? A. Well, as regards that building——

Q. As regards any building? A. No, not necessarily any building. It was granted in some cases.

Q. If the Rapp system was not in disgrace necessarily, why was a building disgraced because it had it in? A. Because this was an unusually large building, and had they applied for that building in the first place, as far as my vote was concerned, it would have been "no." I would have voted against it, because it is not as good construction, in my opinion, as the law specific-

ally requires. The system which the law specifically requires is the common bonded arch or the flat arch, hollow tiles. I have absolutely no interest in hollow tiles; never had any; or in any company manufacturing hollow tiles—not for a great many years. I probably had some stock in the Staten Island Terra Cotta Company when Erastus Wyman was president, and afterwards Mr. Edward Addick got control of it and that concern was wrecked, and got into the hands of receivers next, and was reorganized, and my interest in the company was lost.

Q. From your knowledge of the terra cotta system, gained in that time, you conceived a sort of affection for it as a building material, did you not? A. Yes, sir.

Q. How is it if that was the condition of your mind, and of the minds of your associates, concerning the Rapp system of fireproofing at the time the Jones building was under discussion, what has changed the minds of the building department and of the board of examiners, so that now it constantly passes the Rapp system? A. It all depends, Mr. Moss, on the character of the building for which the application is made. I have for myself—I don't answer for my associates—but for myself I have voted in some cases "no" and in some cases "yes" upon all these various systems, and there are some twenty or more; sometimes "yes."

Q. Yes; but I notice from my examination of the minutes of your meetings that in every case that the Rapp system comes before your board of examiners, within the last month, it is voted favorably, except that Mr. McMillan votes "no" every time. A. Yes, sir.

Q. Why is that? A. For the reason that the Rapp system—we have had no case of the Rapp system lately except for the first floor of tenement houses.

Mr. Moss—Excuse me.

The Witness—Pardon me.

Q. Excuse me, one moment. Your minutes, if I have read them correctly, show very many applications for the Rapp system

right along for the last four weeks? A. Only for the first floors, as far as my remembrance goes. No important building.

Q. You admit that there are many as to first floors, at any rate? A. Yes, sir.

Q. Why does Mr. McMillan vote no upon those cases? A. For the reason that the Rapp has two kinds. Rapp has a flat—where he puts his bars. It is simply brick laid on bars of iron; and he has two methods—one flat and one segment shaped, arched shaped. Mr. McMillan, as it appears by his action in the board of examiners, refuses to vote on a Rapp flat system, but will vote for a curved system of Rapp's. That accounts for his vote.

Mr. Moss—I notice that there is another system which you are passing now—the Bailey system.

The Witness—Yes, sir.

Q. How long have you been passing the Bailey system? A. The board, by a majority vote, as I think, never refused the Bailey system for unimportant work. That is to say, for one story or two stories.

Mr. Moss—But I notice occasional instances where the Roeb-ling system has passed.

The Witness—Yes, sir.

Q. Is there any material difference between the Roeb-ling system, the Bailey system, the Rapp system, the Expanded Metal system, the Columbian system, the Hayes & Tostevan system? Is there any material difference between those systems? A. Quite a difference between some of them. Not a great deal of difference between two or three of the others.

Q. How is it that there are no plans passed with the Hayes-Tostevan system or the Expanded Metal system? A. Oh, there have been.

Q. When? A. I can't recollect.

Q. You cannot recollect any, can you? A. No, sir.



Q. Are those systems as good as the Roebling system, for example? A. Yes, sir; I can recollect one with the Hayes & Tostevan system. That is, the Mills Hotel.

Q. Do you know all about the Mills Hotel matter? A. Yes, sir; that is to say, I know generally. I remember.

Q. Do you know how the Hayes & Tostevan system got into the Mills Hotel No. 1? A. They got in because of the urgency of the request made by Mr. D. O. Mills himself——

Mr. Moss—No.

A. (continuing.) And because they started to put it in anyway.

Mr. Moss—Mr. Hayes or Mr. Tostevan testified here that when the plans were submitted they were somewhat vague——

The Witness—Yes, sir.

Mr. Moss (continuing)—With reference to fireproofing, and it slipped through by an oversight of the department. Do you know anything about it?

The Witness—I believe that is so; yes, sir.

Q. And then Mr. Mills, in order to be allowed to continue and complete his hotel with that construction, hotel No. 1, had to promise that he would not use it in hotel No. 2. Do you remember that? A. I believe that is so.

Q. That is so. Now, if you made Mr. Mills promise that he would not use that fireproof construction in hotel No. 2, why did you permit him to finish it in hotel No. 1? A. Because at that time I should not have voted if it had been an original proposition, as far as my vote goes, for the use of that flooring in No. 1.

Q. You knew that it was a difference of some thousands of dollars in favor of the system which Mr. Mills wanted to use, did you not? A. Yes, sir. I don't care anything about that.

Q. Of course not. You knew that the Mills hotel No. 1 was a larger building than No. 2, did you not? A. No, sir.

Q. Did you not? A. No, sir.

Q. Would hold and accommodate more people? A. No.

Q. Planned for more people? A. No.

Q. And you knew it was to be for a hotel, did you not? A. Yes, sir.

Q. And that fireproofing was an important part of a hotel building? A. Yes, sir.

Q. Was your objection to the Hayes system because you thought it would endanger the lives of people in the building? A. It is not as good a construction, and also——

Q. No; but was it with reference to its fireproof qualities, and the fear that the lives of people might be endangered? A. Yes, sir; I have seen work done by Hayes and Tostevan that I would not permit, nor with my vote sanction, in any other building.

Q. Then if it was a question of life and death, of safety from the perils of fire by poor people in the hotel waking up, perhaps in the middle of the night, and being unable to care for themselves—if that was your best opinion, why did you permit No. 1 to be finished off upon the promise that that would not be used in No. 2? A. Because they had a good portion of the building done.

Q. Why did you not make them rip it out? A. That would be deemed a hardship.

Q. Ah! But you required Mr. Jones to rip out the Rapp system up there, if it was to meet with your approval? A. No; he never ripped it out.

Q. But you required that it should be done if your approval was to be used, and you gave your approval? A. If he wanted my certificate for the building.

Q. You gave it? A. Yes, sir.

Q. And you gave it on that condition, between man and man? A. Yes, sir.

Q. Yet it was a question of the safety of the people in the hotel, was it not? A. That had nothing to do with the building department.

Mr. Moss—Of course not.

The Witness—The architect of the building didn't want the Rapp system.

Q. If you would do that in the case of an office building on Broadway, why did you permit an inferior construction, such as you have just characterized the Hayes system to be, where it was a question of life and death, perhaps? Why did you not require it to be ripped out, where it had been put in, and finished with your tile system? A. Perhaps we ought to have.

Q. Why did you not, then? A. Because there was a strong appeal that Judge Howland and D. O. Mills personally made to our board, and they went on to say that this was a charity, and he wanted the building to be built as cheap as he could.

Q. Is it charity to make a fire trap for poor people who have only 15 or 20 cents to pay for a night's lodging? A. That is not a fire trap.

Q. Is it dangerous? A. No, sir.

Q. Was it ever dangerous? A. Perhaps not, but as——

Q. Why do you disapprove of the system? A. But as good as the law requires; no.

Q. Then if it was not as good as the law requires, and therefore not so fireproof, why should Mr. D. O. Mills and Mr. Howland, rich and powerful men, by their pathetic appeals to you, move you against your judgment? A. Well, they did.

By the Chairman:

Q. You say they did? A. They did; yes, sir.

Q. Notwithstanding that this construction was not up to the requirements of the law? A. That is right.

By Mr. Moss:

Q. And you mean to say that you were led to do that which was contrary to your duty as a public officer, simply because of the pathetic appeals of rich men, who did not want to lose money? A. No, sir; but the law provides for relief in a case like that. In the law——

Q. Does it? A. Yes, sir.

Q. Then why do you not relieve them right along? A. Because you only relieve men where the good judgment of the board feels that they are entitled to relief.

Q. Then it is a question of judgment again, isn't it? A. Surely, surely.

Q. And any consideration like friendship or pathetic appeals, or any moving consideration, is a proper thing to move the judgment of the officers of the law? A. Every man is influenced by friendship.

Q. Were you influenced by friendship in that case?

The Witness—What case?

Mr. Moss—The D. O. Mills case.

A. No, sir; I never—

Q. What was it influenced you, then? A. The appeal that they made to the board and the representation that they made to the board. Here was this work in, and it would be a matter of, perhaps—I don't know; twenty-five to fifty thousand dollars, if they were forced to rip it out.

By Mr. Fallows:

Q. Then you passed work, Mr. Fryer, that you have admitted to have been illegal? A. I will admit that. More, sir. I hope that the new Building Code Commission will make provision for all these systems. I hope it will make provision under proper requirements for that very system, and for every other system.

Q. Then why did you reject it, if you hope this now? A. Because now the standard set up by the law—the law in fireproofing in 1892 covered all that was then known. These systems have come up since.

Q. But you say you pass them in some cases and not in others. Now, you are willing to have them all come in. What has changed your mind? A. For example, I have never failed to vote for any kind of a system, fireproofing system, where a man could build within that limit non-fireproof. Anything is better than wood.

By Mr. Moss:

Q. Do you want to let the Rapp system in on this new code? A. Yes, sir.

Q. You do? A. I do.



Mr. Moss—But you have already condemned it?

The Witness—No, sir.

Mr. Moss—In the case of the Mills building, and in the case of the Jones building?

The Witness—No; Rapp is not in the Mills.

Mr. Moss—Well, in the case of the Jones building, then?

The Witness—I didn't necessarily condemn it.

Mr. Fallows—He said the Jones building was in disgrace because it was in there.

The Witness—It was in there and in violation of the building law, and there was a *lis pendens* on the building, and the progress of the work was absolutely stopped. They could not proceed with it. They had an injunction case in court, and if that is not putting a building in disgrace, I don't know what is.

Q. Were those *lis pendens* that were put on, what put the building in disgrace, or was it this system? A. The fact that they had put in the system contrary to law, and without permission, and when the building department tried to stop them, they went on and tried to get the best of the building department by this erection.

Q. Do you know that the building department put on thirty or forty *lis pendens* on different pieces of property where the Rapp system was put in? A. I don't know that.

Q. Did you never hear that? A. I don't think I ever did.

Q. What was it that induced the building department within the last three or four weeks to take off every one of those *lis pendens*? A. I don't know. I can't answer it.

Q. No proceedings in court? A. I can't answer that.

Q. You do not know anything about it? A. No, sir, I have no more means of knowing anything about it than you have.

Q. If you were moved by the fervent appeal of Mr. Mills and Mr. Howland to your sympathies, to relieve them from the financial burden, why did you not go so far as to allow them to carry out their contract on Mills building No. 2, which would benefit them some \$4,000 or \$5,000? A. Because, had they asked for the use of the Tostevan construction in No. 1 Mills building, they

probably would have been refused. Now, then, they got it in, and they were told to go and sin no more, practically. "We will let you off of this, but don't you put that in your next one."

Q. What about the poor people who may have to carry the penalty of that sin in some catastrophe some day? A. Don't fear that. There will be none there.

Q. If there is no fear of it, if there will be none there, if you are so sure that the Rapp system will protect them, why did you ever go against it? A. That was not the Rapp.

Mr. Moss—The Hayes and Tostevan system.

The Witness—Totally different.

Q. Why did you ever go against this? A. Because, in my judgment, they are not as good as the letter of the existing law requires. Understand, in a new building. But where a man has put in something, even though he had no right to, where even the court proceeding before Judge Beekman—he said that he would never take the view that the Jones building—that the owner would be forced to take out those floors that would answer the purpose.

By Mr. Fallows:

Q. Did you consider that you were doing an illegal act in permitting that construction in Mills building No. 1? A. No, sir.

Q. You did not? A. No.

Q. You said it was contrary to law to have it there; and yet you permitted it there? A. They had no business to put it in Mills building No. 1.

Q. You permitted it? A. Yes, sir; but we had the right to do it.

Q. But did you do an illegal act? A. No, sir; we have the right to vary the law. That is the discretion.

Q. Did you have the right in the case of the Jones building to vary the law, and to relieve it from that disgrace you put upon it? A. We actually did afterwards. We relieved the fourth floor. Then they again got into trouble. In the Jones building they

had, I think, four floors of the Rapp system in. They came before the board of examiners with a petition to allow the four floors to remain in, conditioned on their putting in the ordinary conventional arch for the remainder of the building, and we granted it. They went on and put in one or two floors with the conventional arch. They changed then quickly to the Rapp system, and continued, and topped out the building with the Rapp system, entirely contrary to the agreement that they made verbally and in writing with the commissioners of buildings—Commissioner Brady and the board of examiners. That is the history of that Jones building.

By Mr. Moss:

Q. Yes, and your friend in the Jones building promised to tear out the Rapp system, did he not? A. He did, yes, sir.

Q. Did he break his promise, or did he keep it? A. They never—nothing ever came of that program. They were going to change—

Q. But your approval of that construction is on file in the comptroller's office without any qualification? A. But you can go back of the returns on that, and find out by bringing Mr. Thompson here, the architect, that there was an understanding.

By Mr. Fallows:

Q. Would the comptroller have done as well— A. (Interrupting.) No, sir. Had I put those conditions in, that and the other conditions, in a letter to the comptroller, it seemed to me that it wouldn't hurt the owner's case.

Q. Were you so interested in the owner's case that you were willing to leave out something that you ought to have put in?

A. I wanted the owner to win. In that case—

Q. But you were willing to be paid if he did win? A. Yes, sir.

By Mr. Moss:

Q. But you were a public officer? A. This had nothing to do with a public officer.

Q. But you had to consider the fireproofing interest all the time, and you were concealing from the comptroller the fact that there was a disgraced system in that building, by a little understanding behind the scenes, with the representative of the owner, for a consideration, of course? A. Is not that the truth? A. No.

Mr. Fallows—That is what he said.

The Chairman—I think the record is all right.

Mr. Moss—I want you to find out the law. There is no one who knows the building law better than you do. Where is the discretion that you have, that you have been talking about so much?

The Witness—The board of examiners?

Mr. Moss—Yes; the discretion to do away with that 120-pound limit, for instance. You said that was a matter of discretion. Where is it? It may be there; but if it is I want to be informed of it. If you desire, we will take a recess after I ask that question.

Mr. Fallows—I want you, Mr. Moss, to request Mr. Fryer to find that discretion which gives him the right to do any illegal act, as in the Mills building No. 1. He says that was an illegal act, and now he says they have the discretion to make it legal.

The Witness—Mr. Moss, I can't find it there.

Q. You cannot find it? A. Pardon me; for your information—you have handed me the charter.

Mr. Moss—This is not the charter. These are provisions—that says "Charter" on the back, but if you will look here you will see that those are the building law matters in an appendix.

The Witness—503 and 504. During the recess I will answer that.

Q. During the recess you will look? A. Yes, sir.

The Chairman—We will now take a recess until 2 o'clock. All witnesses subpoenaed here will appear without further notice.

A recess was then taken until 2 o'clock p. m.



## 'AFTER RECESS—2 O'CLOCK P. M.

WILLIAM J. FRYER, being recalled and further examined, testified as follows:

By Mr. Moss:

I am familiar with the requirements of the law concerning theatres and with the rebuilding of burned structures as well. I was the architect for the building of the Third Avenue Theatre, Third avenue near Thirty-first street, which burned down in about 1896, partially burned down. I was the full architect. The builder was Mr. Snaith. John Snaith, since dead, of Albany capitol fame, the man who put up the papier maché ceiling in the capitol. There was not a single violation put on that building while I was reconstructing it as regards building violations. Technically, there were violations for fire-escapes, after we were finished. It is a notice—called a notice of violation; but no violation as affecting the construction of the building, from the time it was started until it was finished.

Q. (Showing photograph to the witness)—Do you recognize these as photographs of the work while it was going on? A. I never saw these photographs before, but I think I recognize them, yes, sir.

Q. You recognize that work that is shown in the pictures? A. I think so, yes, sir.

Q. And that is the work that was being done under your direction as architect, is it not? A. Yes, sir. I recognize one. The other I am a little in doubt of, although I think—I recognize that one, looking from the street into the building. This is a building that has been used for theatrical purposes since the work was done that I had charge of and is used constantly. I notice that the beams in this building are all of wood.

Q. Do you notice that the walls are out of plumb? A. No, sir. (Looking at the photograph again.) Ah, that portion was afterwards taken down. This was taken at a time when no photograph should have been taken. That front section was taken down and rebuilt after we got the big roof trusses into

shape and properly supported. There was considerable iron work put into that building, as I restored it. Two iron staircases were built, enclosed in brick walls, which the old theatre never was possessed of. There was no fireproofing of that structure, not in the sense of fireproofing the floors, the floors were wooden floors, laid on wooden beams; they hadn't been burned in any case. Well, there might have been some more or less affected, but whatever was affected were removed and replaced with new timber. This was a roof fire. The fire started in the middle of the summer, during the time when the theatre was not in operation, and the roof burned and fell in. The galleries and the floor of the auditorium were not affected materially by the fire at all. It was about four years ago; it was about 1895, I think. I think it was in the summer of 1895. I received \$750 from Peter Brennan for advice and direction as regards a building on the corner—southeast corner of Cortlandt and Church streets. They were altering the building, or wanted to alter it. There was an architect on it. Constable Brothers. They did not consult with me. The builder did—Mr. Peter J. Brennan. Afterwards the architect was sent to me at my request, so that I could explain to him what he would have to do to make it secure. The plans had been rejected by the superintendent of buildings.

Q. Then they were on appeal to your board? A. No, sir; pardon me; they had been before the board. I will try and recollect. It was a good while ago, four or five years ago. The plans had been before our board and had been very properly rejected, before the board of examiners, and they had been rejected by our board. Then I was employed by Peter Brennan to advise what should be done to make them acceptable to the board, and I advised him what was to be done and received \$750 from him for that purpose.

Q. And then after that did you vote to approve the plans? A. No, sir, I don't think my vote was recorded upon that.

Q. Why was it not recorded? A. Because I had a contingent interest—I had an interest in the case.

Q. Did you so state to your associates on the board? A. No, sir.

Q. What reason did you give for not voting? A. I haven't got to give any reason.

Q. No; but what reason did you give? A. I didn't give any. I was present at the meeting. I did not state at the meeting that I had received the money from Brennan. I did not state that I had been consulted. It was none of the board's business. My own personal business. I knew what the objections were in the minds of the board. Nothing could have gotten through in any such shape as they presented it.

By the Chairman:

Q. When the plans were before the board you passed upon them as a member of the board? A. Yes, sir, and rejected them.

By Mr. Moss:

I voted against them, most certainly. I knew what the objections were, and I told Mr. Brennan. I told him what to do to meet those objections afterwards.

Q. And then, although you did not vote in favor of the plans afterwards, you withheld your negative vote, did you not? A. Why they were in shape when he presented them so that the board could very properly pass them, and did pass them.

Mr. Moss—Exactly.

The Witness—Had the board consented to what they proposed to do at first, their building would have fallen down. I went and examined it. Mr. Brennan came to me and asked me to go and look at the building. I went and looked at the building, and told him that the wonder—for they had started the work—the wonder was at that time that the building was not down in the street. This building was one lot removed from the corner of Church on Cortlandt street. When Church street was widened, the corner building was removed, leaving a little gore strip of about three feet wide adjoining the next building. The owner of this Babcock and Wilcox building. The owner in question

acquired this little gore, and then they proposed, or their architect proposed to build three lines of bay windows. Here was a high building, five story store building, with walls only twelve inches thick from the first story to the top, and they proposed to cut three big lines, take about half the brick work right out of the building, and also to puncture the wall with window openings, and all that they proposed to do in the world was to cut these slices, to put a lintel across the opening to each floor, and compel half of a poor wall—the half that was left—to do all that the whole of a poor wall formerly did—and the architects returned those plans.

By the Chairman:

Q. Did they have an architect prepare the plans? A. They had the Constable Brothers. Afterwards one of them was the Superintendent of Buildings. Now, I went to look at them, and I told Mr. Brennan, as I say, first, that the wonder was that his building was not in the street. I then went on to tell him that he would have to use twice as much iron work as he proposed. On the cheeks of the wall that they had cut down—he would have to put columns all the way up, and then put his beams between the columns, and in that way carry it down to the foundation; what would be an equivalent of the old wall.

By Mr. Moss:

Q. Why did Peter Brennan go to you? A. Because he knew me, and perhaps he felt that I could give him the right kind of advice. After telling him all this, I told him to send his architects to me, and I would make it still clearer to them what would be necessary to be done.

Q. Did he not go to you because he knew that you were a member of the board of examiners? A. I don't know what was in his own mind at all.

Q. Did you not think so? A. I didn't think anything about it.

Q. Did you take \$800, or receive \$800 from Howard Constable?

A. No, sir.



Q. Did you receive any sum of money from Howard Constable?  
A. Never a single dollar.

Q. From the Constable firm? A. Never a dollar.

Q. Or from any one representing him? A. Never a dollar.

Q. How much time did you spend on this matter of Peter Brennan's? A. I think I described that time in a prior investigation. I went to the building two or three times. I think I described in the former investigation how much time I gave to that case.

By Mr. Hoffman:

Howard Constable is a brother of Stevenson Constable. Stevenson Constable was appointed superintendent of buildings by Mayor Strong in place of Superintendent Brady, now Commissioner Brady. He was superintendent of buildings during Mayor Strong's term.

By Mr. Moss:

Q. You have spoken of an investigation that was made. Did not Mayor Strong endeavor to remove Howard Constable? A. Stevenson Constable.

Q. Or Stevenson Constable? A. Mayor Strong declared that if he had the power he would remove Stevenson Constable.

Q. There was a great deal of discussion about that at the time, was there not? A. Yes, sir, there was.

Q. And it was well known that the mayor would remove him if he had the power? A. So he expressed himself publicly.

By Mr. Hoffman:

Q. Were any charges made against him by the mayor? A. I think not, Mr. Hoffman. I don't know.

By Mr. Moss:

Q. Have you not said that you desired to be president of the Building Code Commission, but that the orders came from the powers that be to make Mr. Brady the chairman? A. No, sir.

Q. Who appointed you as a member of the Building Code Commission? A. The municipal assembly of the city. I was appointed January 17, 1899, I think is the date.

Q. You said in your testimony a little while ago that the authorities at the building department frequently misunderstand plans and reject them unnecessarily. Is it not a fact that the department is lacking in engineering ability? A. No, sir, I think the department is well equipped in its engineering ability.

Q. How is it that they make these rejections, as a matter of course, almost, which are easily fixed afterwards by an explanation? A. There is an enormous number of plans that they have to act on, and they have to act on them very promptly, and it is no wonder that sometimes the intent of the architect is misunderstood; and then, too, the architects frequently fail in little details that they should have provided for in their applications.

Q. There are a great many petitions for relief from the duty of putting up fire shutters, that are referred to you personally, are there not? A. They are referred to all the members of the board. Yes, sir, we all have to take our turn in reporting on them.

Q. How many are referred to you on an average a week? A. One or two.

Q. What do you do in finding out whether to recommend the granting or refusal of the petitions? A. I go and examine the buildings and make my report in accordance with my best judgment to the board. That work is all included in the compensation of \$10 for the meeting. The surroundings control me in granting immunity from the requirements for fire shutters. The law absolutely requires fire shutters upon buildings of certain classes; but the law further states that the board of examiners can grant exemptions from any building; puts no limit on them. There is a distinct provision for that. I don't know whether there is a petition by Mr. O'Reilly, one of my fellow members, to have his building exempted from the requirement to put up fire shutters. I have no personal acquaintance with Mr. Charles E. McCann. I know him by sight only. Senator Grady I know

quite well, but I have not talked with Senator Grady perhaps in a year.

Q. Did you write an article which appeared in the Record and Guide sometime ago, in which you recommended builders that they should get acquainted with the inspector upon the job, and after it was over to make him a present? A. I am not sure—I write very frequently. The Record and Guide looks to me for technical articles on certain subjects.

Q. Have you written such an article as that? A. I don't remember.

Q. Are those your views—that the man erecting a building should make the acquaintance of the inspector and at the close of the job should make him a present? A. No.

Q. You do not think he should do that? A. He can do it if he pleases.

Q. You do not think he should do it, do you? A. I don't know whether he should or not.. I am not so——

Q. Why do you not know? A. It is only a matter of opinion.

Q. Have you not so written. Has it not been so published by your authority in the Record and Guide? A. Over my signature? No, sir; nothing over my signature.

Q. By your authority, or an article furnished by you to the Record and Guide? A. I have provided so many articles for the Record and Guide, I can't tell. I don't recollect.

Q. Would you write such an article as that on a technical subject? A. I write a great many articles for the Record and Guide.

Q. Would you regard such an article as that as a technical subject? A. I might write an editorial, but I would not assume as an individual——

Q. Would you regard it as a technical subject? A. I write a great deal for the Record and Guide, and I can't tell what I write.

Q. Would you regard advice to make presents to the inspectors writing upon a technical subject? A. That would not be a technical subject.

Q. That is the question I asked. Why are you not clear whether or not you have written such an article as that for publication? A. I can't remember.

Q. Would you write such an article as that? A. It all depends upon how that word—if I wrote such a thing, it all depends on the way in which that language was used. I can't tell.

Q. That is a very plain proposition, that the owner of a job——  
A. I have written for the Record and Guide for the last fifteen years.

Q. (Continuing.) That the owner of a job should make the acquaintance of the inspector, and at the completion of the job should make him a present. Do you deny that you wrote such an article as that? A. I don't remember to have written such an article.

Q. Do you deny it? A. I don't deny it. I don't remember it.

Mr. Moss—I have a copy of it right here. Did you not write it and was it not published in the Record and Guide of December 1, 1894, at page 801 as follows:

The Witness—Five years ago?

Mr. Moss—Listen to the subject matter; “Is treating an inspector to a drink or a cigar, or presenting him even with a suit of clothes, or even giving him a sum of money, always in the nature of a bribe. I would advise the owner of an important building to early seek out the inspector of the district in which the building is to be erected, and ask him as a special favor to watch that the building comply in every way with the law, and at the finish of the building show an appreciation of the inspector's faithfulness by giving him a substantial present.”

Q. Do you recall writing such an article as that? A. I may have written that; and that was to the point, instead of an owner having any grievance against the inspector of buildings, that he should cultivate that inspector. It is to the owner's interest to have the inspector find as much fault with the building as possible. The more fault he finds the better building he will get. At the cost of the contractor, perhaps, or in the way of compelling the contractor to do his full work. I may have written that.

Q. Have you not known of cases or heard of complaints of inspectors making objections that were not well grounded? A. I don't recall any.



Q. And asking for money to have those objections removed or withheld? Have you ever heard of such a thing as that? A. No.

Q. You have never heard of that in your long experience? A. Not of my knowledge.

Q. Have you heard of it as a public rumor? A. I have heard of lots of men complaining against inspectors when the inspectors were absolutely right, in my judgment, after hearing the matter.

Q. In your judgment, as written in that article, is that the way to look at the matter? A. I would advise that very plainly to an owner, to ask the inspector of that district to do his level best on my building, to see that the law was fully carried out. You understand that it is no loss to the owner. The owner is getting a better building by having an inspector of buildings do his full duty, and more than his full duty, and carefully watch that building; so that an owner need not have any grievance against the inspector. A builder who intended to slight his work somewhere would have.

By Mr. O'Sullivan:

Q. These matters that Mr. Moss has covered in his question to you, relating to 1894 and 1895: Were they not the subject of an investigation instituted by Mayor Strong? A. They were.

Q. And the matter was submitted to the grand jury, and dismissed by them? A. They were. Pardon me! They were never carried to the grand jury, so far as I know.

Q. But there was an investigation? A. There was an investigation.

By Mr. Moss:

Q. Were they submitted to the district attorney? A. I don't know anything about it.

By Mr. O'Sullivan:

Q. Did Mr. D. O. Mills urge you to do anything contrary to law, when he pressed the fact that he was building a philanthropic

institution and wished you to pass upon a certain fireproofing?

A. No, sir.

Q. In those various systems that Mr. Moss has mentioned, the Bailey system, the Roebling system, the expanded metal system, the Rapp system, and the Columbian system—they are all fireproofing systems? A. Yes, sir.

Q. Some you consider of more merit than others? A. Yes, sir.

Q. Some have been submitted to tests and others have not? A. Yes, sir.

Q. And your object is to get the one that will come nearest the requirements laid down in the building laws? A. Yes, sir.

Q. You have made a special study of the building laws, have you not? A. Yes, sir.

Q. And Mr. Haight, when he testified previous to you that the building laws were vague, came to you to shed light on them in one particular case that he mentioned? A. Yes, sir.

Q. You do not wish to be understood that the law itself is vague, but rather the application of it to a given case?

The Chairman—Can you answer that directly?

A. I think so, yes, sir.

Q. I may state my question a little more intelligently, perhaps. While the law may be explicit, the question is as to whether the given building comes under one or other provision of that law?

A. Yes, sir; that is it.

Q. As you mentioned in the case of schools, whether it should be treated as a theatre or as a private building? A. Yes, sir.

Q. That is where the vagueness comes in? A. So far as schools are concerned, yes, sir.

Mr. O'Sullivan—I mean in that instance that I illustrated.

The Witness—Yes, sir.

Q. And your experience with the building laws, and in that particular phase of it, would rest on precedent—that is, on such decisions as the board of examiners had previously rendered on such or similar cases? A. Yes, sir.

By the Chairman:

Q. Would you be guided entirely by precedent in that regard? A. No, sir; for each case has to stand on its own merits; each building has to stand——

Q. As I understood you in your testimony, you exercise your judgment largely in each case? A. Yes, sir. The law says, if I may be permitted—in cases in which it is claimed by an owner in person, or by his representative, that the provisions of this title do not directly apply, or that an equally good or more desirable form of construction can be employed in any specific case, then that required by this title, then such person shall have the right to present a petition to the board of examiners, and so on. Mr. Mills was asking us to use a wise discretion in his favor.

By Mr. O'Sullivan:

Q. Yes; to exercise your discretion in his favor? A. That is it; under the provisions of the law.

By the Chairman:

Q. You have already testified that you did not comply with the requirements of the law—— A. Pardon me. They put in these floors which do not comply with the requirements of the law in itself; but when they come before the board of examiners, and the board of examiners favorably acts upon that petition, then they become a lawful floor.

Q. In spite of the specific language of the law? A. Under this provision that I have just read. You would have to have a law as big as the Bible that would cover every case that comes up in building.

By Mr. O'Sullivan:

Q. You wished to explain in response to a question of Mr. Moss's, the Haight matter. Will you give your explanation? A. I would like to, yes, sir. I went to Mr. Haight's office at the request of Mr. Thomas Diamond. Mr. Diamond was about to do, or was doing the iron work of the Merchants' Club, I think it was,

on Pine street. Mr. Haight was the architect. It was the case of the alteration of a building; and he asked me if I would not go with him to Mr. Haight's office and give my views to the architects, and also the architect wanted to talk with me about the American theatre. The American theatre, Forty-second street and Eighth avenue.

By the Chairman:

Q. Mr. Diamond said this to you? Mr. Diamond asked you to go there? A. Mr. Diamond.

By Mr. O'Sullivan:

Q. What was Mr. Diamond? A builder? A. He is the iron man on West Thirty-third street. Thomas Diamond. I went with Mr. Diamond to Mr. Haight's office, and went over the Merchants' Club building, and went over the American theatre. That is the same year, 1892—the same year that the new theatre law went into operation, and very few understood the new theatre law. So we got over those two cases all right. A few weeks after that I received a letter from Mr. Haight addressed to "My dear Mr. Fryer," and asking me if I would call to see him with reference to putting a roof garden on the Broadway theatre, Broadway and Forty-first street. The new law prohibited roof gardens except above a fireproof roof. I went down to Mr. Haight's office, and I gave him my views. I showed him how possibly he could get over the difficulty, but I impressed on his mind that he would have to spend a great deal of money in getting what would be substantially an equivalent of a fireproof roof. He never carried out that work. I think it was due to my alarming him as to the cost of doing—of putting this up; that the cost would not warrant the improvement. Something like a year after that Mr. Young came to me and asked me if I knew Mr. Haight. I said yes.

Q. That would be 1893? A. About 1893, or somewhere thereabouts. I can't remember the dates exactly. And said there was a lot of work in Mr. Haight's office, and he would like to have a



letter of introduction to Mr. Haight so that he could figure on work in Mr. Haight's office. I gave him a pleasant letter of introduction to Mr. Haight, and he came to see me the next day. Mr. Young did, and said that he had presented my letter to Mr. Haight, and that Mr. Haight came out and didn't seem to know who Fryer was; asked him what his business was and where he was located, and who he was generally. Well, that stung me a little. I smarted under the fact that a man one time could write me "My dear Mr. Fryer," and go down and give him information, and a while after I wrote the letter that has been read here before this committee. When the commissioners of accounts investigation came up, Mr. Haight appeared before the commissioners of accounts and gave that letter. Then in looking up my papers, as I was subpoenaed by the commissioner of accounts after that, I came across this "My dear Mr. Fryer" letter, and I said to myself "Hello;" I said "This Broadway theatre has nothing to do with Mr. Diamond's cases," and I immediately made out a bill for \$100 for services, for advice given in the Broadway and Forty-first street theatre. He did not pay that. Suit was brought and the case was tried before Justice O'Gorman in the Fifty-fourth Street Civil Court, and the case was decided against me for the reason that, I think, the judge got the two theatres mixed up. At any rate, the judge, in rendering a short decision, said that inasmuch as I had given no notice to Mr. Haight that I proposed to charge him for advice, that all the advice I gave him must be considered under what I had acknowledged was to be free advice.

Q. And all the matters Mr. Moss has examined you on in relation to the subjects you have now described were threshed out either before an investigating committee under Mr. Strong or before the courts? A. That is right; and including this Third Avenue theatre.

By the Chairman:

Q. Including the charge of \$750? A. Most certainly.

Q. And also the other one? A. Yes, sir; on the Third Avenue Theatre, I would like to make a few words of explanation. It

was a building that was only partially destroyed. We had a perfect right to rebuild it as it was, but we rebuilt it a great deal better, and that was under a superintendent of buildings, who had no liking for me, and I had no favors from the department of buildings in rebuilding the Third Avenue Theatre; none at all.

Q. The plans as they are submitted to the building department sometimes are ambiguous and sometimes lack detail, and they are sent back, as you say, to be amended. A. Yes, sir.

Q. That you describe as rejecting, do you? A. Yes, sir.

Q. For such amendments? A. Yes, sir.

Q. To whom do they appeal in case they are rejected completely from the building department? A. If they are rejected completely it is on some one particular fault. They can appeal—the applicant can appeal to the board of examiners. Under the charter you appeal to the board of examiners in the boroughs of Manhattan and Bronx, and you appeal to the board of buildings, all the commissioners, in the other boroughs.

By Mr. O'Sullivan:

Q. That board of examiners is composed of a number of delegates sent by different trade organizations? A. Yes, sir.

Q. You went there to that board of examiners as a representative from the Architectural Iron Association? A. Yes, sir.

Q. Your appointment was not controlled by any political party or by any politician? A. No, sir.

Q. You were regarded by your organization, known as the Architectural Iron Association, as the fittest man to represent their interests there on that board? A. They so felt.

Q. Another name that was on that board with you, that Mr. Moss mentioned, was that of Cornelius O'Reilly. A. Yes, sir.

Mr. Moss—That board is not dominated by any political phase or factor?

The Witness—No, sir.

Mr. Moss—You have been led to say, by Mr. O'Sullivan, that these matters which we have had under discussion to-day have been threshed out before.

The Witness—Yes, sir; largely.

Mr. Moss—Then to some extent——

The Chairman—He wants to qualify that. He says partly.

The Witness—Largely.

By Mr. Moss:

Q. Then, to some extent, they are matters of public knowledge?

A. Yes, sir.

Q. Were the proceedings of the commissioners of accounts published in the newspapers? A. I don't know, except that the newspapers published the proceedings of the investigation at that time; yes, sir.

Q. Did they publish about this Haight matter and the Brennan matter? A. Yes, sir.

Q. They did? A. Yes, sir.

Q. So that these things were all well known in the community, and particularly in the building interests? A. Yes, sir.

Q. And on top of all that the municipal assembly has put you into the building code commission; is that so? A. Yes, sir.

Q. And that was done last January? A. Yes, sir.

Q. Did you ask to be put on that commission? A. I never asked a single soul for my appointment.

Q. How did you get into it? A. I don't know.

Q. Did you talk to anyone about getting into it? A. Never.

Q. Did any one speak to you about it? A. Never; no.

Q. Not even Mr. Brady? A. Oh, Mr. Brady and I talked over building code matters for a year previous, and in that sense——

Q. You and Mr. Brady had been discussing building code matters for a long time, had you not? A. Yes, sir.

Q. He was a member of your Land Appraisement Company? A. Yes, sir.

Q. Your interests have been close with him, have they not? A. Our friendship——

Q. And your association with him was congenial? A. Yes, sir.

Q. To both of you? A. I hope so; it is to me.

Q. Was it not through Mr. Brady and his influence, so far as you know, that you got into this building code commission? A. I don't know.

Q. You have no knowledge on the subject? A. No knowledge.

By the Chairman:

Q. Who recommended you? A. I was not recommended at all.

Q. You have no knowledge as to why or by what influence you were nominated? A. No, sir.

Q. Or selected? A. No. If you will pardon the fancy, or ego-tism, I suppose I was selected because of my acknowledged fitness for that kind of work. I have been in favor of the preparation of a building law since 1879.

Q. And was it known to these people that you were advertising in the Record and Guide, "Prices high, services good?" Was that known? A. I don't know.

Q. It is a matter of public knowledge, is it not? A. An advertisement is intended for public knowledge.

Q. Has it not frequently been the case that where plans have been rejected by the building department for one reason or another, the people have come to you to get them into shape so that they could be passed? A. Very rarely.

Q. It has happened? A. I suppose it has. It has certainly happened in the case of Mr. Brennan, if you put it that way.

Q. I want to ask you your opinion—what you think of that situation: Whether you think it is right that a man should be in a position where, as a member of a board he passes upon the completeness or regularity of a plan or specification, and then is consulted and is paid for his services in connection with putting it in what he thinks is the right shape, and then passing upon it, or being a member of the board that passes upon it? A. The law makes provision for that. Our board is made up of architects—

Q. No, I am not asking you about that provision of the law. I ask you for your opinion from an ethic or moral standpoint? A. I see no objection to that.

Q. You see no objection to it? A. No, sir.



By Mr. O'Sullivan:

Q. Have you ever voted on any case where you are consulted?

A. No, sir.

Mr. Fallows—Not quite all. The witness has already testified early in the morning that once he failed to vote, so that it is half a vote on the proposition.

Mr. O'Sullivan—That is a subtle distinction.

By Mr. Moss:

Q. Do you always tell your associates when you have received a fee in connection with a case that comes up before them? A. I never tell them.

By the Chairman:

Q. Has any plan that you have ever been interested in perfecting, been rejected by the examiners? A. I don't know. I think not, however.

Q. Have all the plans that you have passed upon or been consulted on, when they again came before the board, been passed by the board? A. I have been consulted on lots of cases where I refused to have anything to do with them.

Q. I did not ask you that. I asked you if there is any single case in which you figure as consulting architect, or in any other way, that was ever rejected by the board? A. I don't recollect any, and I hope not.

By Mr. Boland:

Q. What does your salary amount to? A. We are paid \$10 a meeting; a weekly meeting.

Q. One meeting a week? A. One meeting a week, and only for an attendance. If we are not there we get no pay.

By Mr. Fallows:

Q. Would you consider the system better if this board of examiners were paid a proper compensation and were not permitted to engage in work of a kindred nature, so that you would be

relieved of the possibility of voting upon a matter in which you might have a possible financial interest? A. No, for this reason: That if you want a body of experts who are up to the questions of the day, you have to have that body made up of men who are actively engaged in the business and not men who are, by reason of their advanced age, or for other reasons, out of the business, and therefore behind the times in their knowledge of construction.

Q. Would you apply that to officials generally who are paid large salaries? How about the judge who goes upon the bench? He has to give up his private practice? A. Yes, sir.

Q. What would you think of a judge—— A. I think that is different.

Q. Why, you are passing as a judge on certain questions that are presented to you with reference to the building department, and it means perhaps more to the builder to have an adverse decision than to the majority of litigants to have an adverse decision of the court; and yet it is considered immoral or illegal for a judge to practice privately, and especially to pass upon cases, as a judge, in which he has been consulted privately; and yet you say in your own particular case you think it is perfectly proper for you to go out and give an opinion and take a retainer upon a matter which is to be submitted to a board upon which you are a controlling member by reason of your superior fitness? A. I never said that.

Q. You just acknowledged to Mr. O'Sullivan that you were probably selected on account of your fitness? A. On the code.

Q. Do you not think it would be better if we had a board of examiners of high class men who were well paid and who were not permitted to practice their private profession, just as judges are prohibited from practicing their profession? A. No, sir, I want to say frankly that I would rather see the board of examiners abolished, and a larger number of building commissioners who would form a board.

Q. Of building commissioners? A. Yes, sir. There are now three building commissioners. If you would increase that so as to have a good sized board, that would be better.

Q. Then you are not satisfied with the present condition? A. I do entirely.

Q. I thought you said you would prefer to have the board wiped out, and have a larger number of building commissioners? A. I think that would be better.

Q. On what ground? A. That is meeting your objection that no one should act as a judge who would be engaged in business. The charter provides that no building commissioner shall carry on any business. But the board of examiners—there is provision made absolutely that those men should not be deprived of carrying on their business.

Q. Leaving yourself entirely out of the question, would you say it would be possible for a man who was not honest, to make a great deal of money illegally out of just such relations as you think are perfectly proper? A. No, sir, because the board of examiners are made up of men who cannot be well controlled by—

Q. Granting that they are men that can't be "controlled by"? A. In addition to that these associations are desirous of sending representative men and good men, and these associations—

Q. But they may make a mistake. They may not select a man who is good or honest? A. But they will. Here is the board of Underwriters, the American Institute of Architects, the Iron Association, the Mechanics' and Traders' Exchange. Those people are not going to make any mistake.

Q. If you were a litigant and felt that the opposing party to you had retained as counsel a judge who was going to pass upon your case, how would you feel? Would you be willing to have the case tried before that judge? A. No, I would not.

Q. What distinction do you draw between that and the case of yourself, or another member of the examining board passing upon a question, where they act in a judicial capacity, having the widest discretion under the law, in a matter in which one side or the other has paid a retainer to a member of the board? A. The board of examiners—their only desire is to help the building interests. The building department has only one object in view, to help along the building interests and to aid them.

Q. And yet you say there are cases in which you reject in the one case and approve in another the same system of fireproofing, for instance? A. Yes, sir; but you want a full explanation there. There are some buildings it would be perfectly proper to grant anything, and in other buildings it would be wrong.

Q. You would grant under this system there is the possibility, where a man was not disposed to be honest, that he could act dishonestly? A. I think not.

Q. What is the check? A. The check is the power of these societies. They have to be elected each year. They are not sent there for life, nor for any specified term.

Q. The fact is not published usually where a retainer is taken. You say you do not apprise the other members of your own board of the fact, where you, for instance, have been retained? A. No, any more than the architect. A member of the board has his plans before the department, or a builder. They don't tell us what they have been paid.

Q. Then if the system is going on and if one of the board of examiners is taking money to pass upon plans which afterwards come before him, how is the society going to act upon that? For, unless they know it, you say it is not known? A. It is not known in the sense you put it. Your question was——

Q. This is not directed to you, but I ask your opinion as an expert upon a system which seems to me to be open to grave censure, on your own testimony? A. If you are going to have a board of experts, that is the only feasible plan of getting a good board—the present one.

Q. Is that true of our judges? A. No, sir.

Q. We try to pick out men who stand high at the bar for our judges and pay them \$17,500 a year, and expect that they will not engage in private practice during the time they hold office. Now, if we pick out a board of examiners and pay them salaries commensurate with their ability, would not that be a better system, and remove them from suspicion? A. Yes, sir; but you could not and would not pay them a salary that would warrant them——



Q. Do you mean the city is too poor? A. I mean to say that they would not. The city is rich enough.

Q. Who would not do it? A. There are members on that board of examiners who for \$25,000 a year would not give up their business.

Q. Is there any member of that board of examiners who is an engineer? A. Yes, sir.

Q. Who is that? A. George B. Post is both an architect and engineer.

Q. Any other member? A. No.

Q. Do you not suppose it is possible to find competent engineers in this city who would give up their private practice for a year, anyway, for the sake of \$17,500 a year, for instance, a judge's salary? A. Yes, sir; but you would not pay a member of the board of examiners more money than you would pay a commissioner of buildings.

Q. I am sure that this city and State would pay a large enough salary to get work done honestly? A. They would not pay a salary commensurate with their services, nor is there any necessity, because the duty of the board of examiners is confined to only one meeting of two or three hours at a session, while a commissioner of buildings has to give up his entire time; prohibited from practicing his business.

Q. Do you not consider the duties of one of this board of examiners are just as important as that of a judge, a man who is passing every day or week upon fifty or sixty cases, where the lives of the people of New York are directly at stake? A. Theoretically, yes, sir; practically, no.

Q. What do you mean by that? That the work is really of no practical value, of this board of examiners? A. No; I mean to say there is no fear of any serious mistake being made in the department of buildings, that affects life and the safety of property.

Q. No question of that kind is likely to reach the board of examiners—to get by the building department? A. Not very.

Q. Is that what you mean? A. Yes, sir.

Q. Then your work is not of any high value, so far as the lives and safety of the people are concerned? A. Very little.

Q. Then what is the necessity for having this high class of talent which you say the city could not afford to pay for? A. They could not afford to pay for it, if they demanded that these men should give up their business and devote themselves to the department work, which only requires two or three hours a week.

Q. What is the necessity for such a high class of work, if the work is not practically of any great importance? A. In the first place the building law has got to have some elasticity. The theory of the law is not to give the superintendent or commissioner of buildings arbitrary power; that in the interest of builders, and architects, and owners, there shall be a board of appeal in every large city; Boston, all the large cities—Chicago. There is a board of appeal provided for, from which you can appeal on building questions from the superintendent's decision or commissioner's decision.

By the Chairman:

Q. Is there any particular class of cases that comes to you most frequently on appeal from the building department? Or do they embrace all classes? A. All kinds.

Q. Why is it that this question is referred to you? Is it because the questions are intricate that are involved? A. Some are and some are very simple, but where the law is that so and so—that shall be the method of doing, and a man finds that he cannot do it, or provides some other way, or thinks that he has some better method than the law provides for, then the theory of this board of examiners is that they shall have the power, and that an applicant shall be relieved from any arbitrary decision of the head of the department of buildings.

Q. Does a question of that kind involve any elaborate explanation or discussion of the plans or specifications? A. Sometimes it does. An owner has a right, an applicant has a right to appeal before this board and make his explanation.

Q. Is it the custom, when the matter comes before your board, to have the owner and the architect appear there and argue in favor of their application? A. Very frequently; that is their right to do.

Q. I say, is it generally so? A. Very frequently. No; the bulk of cases they do not.

Q. I have not got this thing very clear in my mind. I understand you to say that last week you passed on seventy-seven cases in a little over three hours, which is less than three minutes for each case? A. Yes, sir.

Q. I may be a trifle obtuse, but I cannot see how any case can have received much consideration at the hands of the board, seventy-seven cases being acted upon in three hours? A. I will tell you. There might have been, and perhaps there were, twenty of those cases related to the fireproofing floors, the first story fireproof floor in a tenement-house. One was asking for the use of the Rapp, and one was asking for the use of the Bailey, and so on. It takes only a part of a minute to dispose of case after case of that kind.

Q. That power is not vested in the commissioner of buildings? A. No, sir; not under the present law.

Q. Do you think the law ought to be modified? A. I think I have so stated; yes, sir. I think the law ought to be modified so as to let in all these systems, and they would have been let in in 1892 had they existed at that time. The law took notice of all that was known at that time. The patent systems have grown up since. Now, they should be let in under proper restrictions, and proper tests of fire and water.

Q. Do you think those tests ought all to be defined in the law? A. I think the law ought to provide that those tests shall be made to show their ability to withstand the effects of fire and water. Some of them are made up of materials that are secret. We do not even know what they are.

Q. Is it your judgment that the law ought to be as clear and distinct as possible, and leave as little discretion to the building department as possible, or the reverse of that? A. Yes, sir.

Q. The reverse of that? A. No, sir. Your first proposition.

By Mr. Moss:

Q. Do you not know that very recently, in a case brought by Mr. Rapp, it was decided by Judge Smyth that it is the duty of the superintendent of buildings to pass originally upon these fire-proof questions? A. That was not in the Rapp case. The only case I know——

Q. What case was it in? A. That was in the syndicate building; the Park Row building.

Q. Within a few months past? A. No, sir, the only one I know of is the one that occurred before Mr. Constable went out of office, eighteen months or so ago.

Q. I am speaking of a recent case, just prior to the taking off of the lis pendens that had been put on Mr. Rapp's building by the superintendent. Are you still of the opinion that the passing upon fireproofing belongs to the board of examiners rather than to the superintendent of buildings? A. So the department rules at the present time. But Judge Smyth decided in that syndicate building, as I remember it, the superintendent must first deny or give the privilege.

Q. Exactly. Now we have that, if that was the case. The principle is the same as the one that I have in mind, namely: That it is the duty of the superintendent of buildings to first determine whether he will or will not pass the application? A. Yes, sir.

Q. And then the function of your board is on appeal from his decision? A. Yes, sir.

Mr. Clarke—From his refusal.

Mr. Moss—Yes, his refusal.

Q. Why do you say that these matters belong initially to the board of examiners? A. Because when the application is made to the superintendent of buildings, if that application is in accordance with the law, the superintendent passes it—or, rather, the commissioner passes it. If it is not in accordance with the requirements of the law he denies it. That is what he must do.



He must not, under the existing law, make up his mind whether it is as good or better; but he denies it.

Q. You say that each of these Rapp cases that have come before you is a simple formal matter which is disposed of in the fraction of a minute? A. Yes, sir.

Q. Are not those matters denied as a matter of course by the department of buildings, and turned right over to you? A. Yes, sir.

Q. Why is that? A. Because the Rapp arch, or any of those other systems, is not in accordance with the law. It requires the permission of the board of examiners.

Q. You do not apprehend my question. In those cases where it is asked to be put on the first floor, which you agree is perfectly right: Why is it that the superintendent of buildings disapproves the application to put it in on the first floor in every case, and refers them to your board? A. Because, whether it is the first floor or for ten floors, the Rapp system is not in accordance with the requirements of the law. All tenement houses must have the first floor fireproof, and it is the practice of the board to accept almost any of those constructions for the first floor, without question, and therefore, if we have twenty of those cases among the seventy-five, one asking for Rapp's, one asking for Bailey's, etc.. in accordance with our——

Q. Not only must the first floor of tenement houses be fireproof, on the first floor, but all hotels must be? A. Yes, sir, all hotels must be fireproof entirely.

Q. They must be fireproof hotels on the first floor, under the law? A. All new hotels over thirty-five feet in height must be entirely fireproof.

Q. And all buildings altered to become hotels must be fireproof? A. Not necessarily, no. They must have one fireproof floor.

Q. All buildings altered to become hotels must have one fireproof floor. A. Yes, sir.

Q. Do you remember a question that was made on that proposition during Mr. Constable's time was decided in a test case that

came out during this present administration? A. I don't remember the case.

Q. But you know that that is the rule? A. Yes, sir.

Q. What is done or what has been done to require the fireproofing of the first floor of these buildings that have been altered into hotels, to comply with the provisions of the Raines Law? A. I don't know. I don't want to know anything about the Raines Law.

Q. Do those things ever come to your jurisdiction? A. There was a question a year or two ago as to whether a Raines hotel could be put into a building that was not entirely fireproof, under our New York law. You can put a Raines hotel in a frame building in any other part of the State of New York except in the city of New York.

Q. On account of the building laws? A. On account of our local building laws. A man has a liquor store on the first floor and gets his rooms upstairs, and it is always deemed—it is very singular to me why, when those same rooms and that same saloon can be in a frame building all through the State of New York, why we should prevent a man from putting those rooms and a saloon into a good tenement house building.

Q. That is your theory in the moral consideration of the matter and not on the legal construction of it? A. No, sir.

Q. You recognize the requirement of the law in those cases? A. There was an opinion, of I think it was Mr. Scott when he was the corporation counsel. There was an opinion given to the building department which I read at the time, taking that view, that they had to be in fireproof buildings.

Q. And that has been written into the law of the State by the decision of a judge? A. I don't wish—I don't know.

Q. Speaking of fireproofing, are you not arranging in your Code, tentatively, at least, to have the fireproofing graded? Certain systems will be allowed up to a certain height, certain other systems to a higher altitude, and so on? A. Not that I know of.

Q. You have not heard anything about that? A. Except what I read in the testimony produced before this investigating committee.

Q. Are you taking kindly to that proposition? A. Most certainly not.

Q. You intend as far as you are concerned, when the Code comes out that every system that can be approved at all shall have the full limit, to the full height? A. That shall be my personal position, yes, sir.

Q. We are glad to know that. Who is the architect of that board? A. George B. Post.

Q. Does he do private business in matters that come before the board? A. Yes, sir.

Q. He does? A. Yes, sir.

Q. And receives a fee? A. Why frequently he has cases before the board, which he has a perfect right to do; but his vote is always—he is always recorded as not voting.

Q. Does he tell the board that he receives this money? A. No, sir.

Q. How do you know it? A. I don't know it.

Q. Why do you say it is so? A. He is architect of a building.

Q. Why do you say it is so? A. He is not working for his health.

By the Chairman:

Q. I want to ask the witness how he knows that Mr. Post's applications are before the board? You say they do not know yours are? A. Pardon me. When I apply to—when I make an application to the board I have to put it over my own signature.

Q. Then it is perfectly apparent to every member of the board that it is your application? A. Yes, sir; but you were speaking, Mr. Chairman, as I understood you awhile ago, of consultation cases.

Q. Yes. In matters where you were only the consulting architect your name does not appear on the plans? A. Oh, no, sir.

Q. Then there is a difference? A. Yes, sir.

By Mr. Fallows:

Q. You never vote on those cases, I understand?

(No answer.)

By the Chairman:

Q. Then there is a distinction between the case where you are the original architect, where you furnish the plans and specifications, and where you are consulting architect? A. Yes, sir.

Q. Does Mr. Post ever act as consulting architect in those cases? A. Yes, sir. He has acted as consulting architect, for example, for the Tombs construction—the Tombs buildings.

By Mr. Moss:

Q. Did that matter come before your board? A. Yes, sir.

Q. Do you know whether Mr. Post received a fee for that work? A. I don't know. I assume he did, or will.

Q. You judge him by your own course? A. Yes, sir.

Q. Who is the builder of the board? A. We have two. We have Mr. Warren Conover; we have Mr. Cornelius O'Reilly.

Q. Mr. Warren Conover had the brick work for the Tract building, did he not, on Nassau street? A. No, sir.

Q. Was that Mr. O'Reilly? A. No, sir, neither one of them.

Q. Do these gentlemen act as consulting experts? A. I really don't know. Mr. Conover actually is capable of acting as such.

Q. But you are not as positive about his matters as you are of Mr. Post's? A. No, Mr. Post is not a member of the building code commission; nor Mr. O'Reilly nor Mr. Conover.

The Chairman—I would like to know who the members of this building code commission are?

The Witness—The three commissioners of buildings, to start with. That is to say, Mr. Brady, Commissioner Gilfoyle, Commissioner Campbell. Then we have Rollin M. Morgan, he is a lawyer, of the firm of Mitchell & Morgan; assistant corporation counsel; he is there by virtue of that fact. We have Mr. Bernard Gallagher, of Brooklyn; we have Mr. R. L. Dawes, of Brooklyn, an architect. Mr. Gallagher is a builder. He built the United States post-office in Brooklyn and other large buildings. We have Mr. McCafferty, of the firm of Buckley & McCafferty, of Manhattan, architects. We have Mr. George J. Just,



a civil engineer. There are seven besides Mr. Cornelius O'Reilly. I don't know whether I have mentioned them all or not. There are seven besides Mr. Morgan and the three commissioners of building. I can't tell how often I have been retained as consulting architect in matters before our board in the last three years; frequently. I think I have always refrained from voting at such times. I have not refrained from voting for any other reason than that. That is the only reason that has kept me from voting when I have been present.

Q. One question more. Is not the framing of this building code, in your judgment, one of the most important matters, not only for the building trade, but for the interests of the people of New York? One of the most important matters now pending?

A. It certainly is. That fact was impressed on my mind by President Guggenheimer after I was appointed. I did have a talk with the president about it after I was appointed. He impressed that very fact on my mind—that it was a very important matter. That was the first time I had ever talked to him about the building code matter, and I recognized the necessity of having that building code commission above all suspicion, and thoroughly representative of every interest to the community, not only the building interests, but the people's interests, and the professional interests, as well as the interests of the builders. I was not consulted in any way about the building code commission as to the personnel. I was selected entirely without my knowledge.

By the Chairman:

Q. You stated that your only reason for refraining from voting was because you had a personal interest, or had passed on these claims, and therefore it must have been perfectly evident to the Board the reason for your refraining from voting? A. They could infer that.

Q. There is no room for any other inference? A. Perhaps not.

Q. Would they not have probably known just as well as if you had openly stated that you had passed upon these matters?

A. Perhaps so. All the remuneration that I get from this board

of examiners is \$10 a week; and men like Mr. Moore, who is on that board now, the president of a large insurance company—we have the value of his offices in consultation, for that \$10 a week, too. He attends to his other duties; and the member of the real estate exchange attends to his duties; and every member of the board attends to his other special duties; and all of the remuneration each member gets is \$10 a week.

Q. And that is what you wish to be understood as saying, that in order to get that high grade of men you would not get them on a salary unless they would be permitted to do outside business? A. No, sir. I don't know what Mr. Moore's salary is; twenty-five or fifty thousand dollars a year.

Q. Fifty thousand dollars a year? A. Fifty thousand a year, I think it was, as president of his company.

By Mr. Moss:

Q. Were you one of the architects on the Commercial building on Broadway?

The Witness—Where is the Commercial building?

Mr. Moss—Mr. Guggenheimer's building.

A. Oh, no, sir.

WILLIAM J. NIHILL, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am confidential examiner of the department of buildings. I was appointed in 1896. I have been there ever since. Superintendent Constable appointed me. I am a holdover. I know Mr. Dooner as superintendent, superintendent of Manhattan borough. I am acquainted with the premises No. 212 Grand street. That is a saloon; hotel; Donohue & Gore's. I was there last night. I was there the night before, and the night before, every night. I spend a couple of hours there every night. That is all I do there. I have not attended bar there, never.

Q. Haven't you ever been arrested for excise violation there?

A. I have been indicted by the State Excise Board, yes, sir.

Q. For what? A. I couldn't tell you.

Q. In connection with the saloon at 212 Grand street? A. I never heard.

Q. But you know what you were indicted for, do you not? A. No, sir.

Q. How do you know that you were indicted? A. There was a bench warrant issued for me, and I never knew what it was, and I went down and got bailed out for a thousand dollars bail. I don't know whether I pleaded or not; I believe I did. I pleaded not guilty; not guilty of anything they put before me.

Q. Do you really mean to say that after having been arrested on a bench warrant, and taken down to court, and after having given bail for a thousand dollars, and after having pleaded, you do not know what you were indicted for? A. I don't, any more than it was a State excise arrest. I do not know what the charge is against me. I have not consulted with my lawyers about it.

Q. Are you not afraid you will be tried some day? A. When I do I will consult with my lawyer.

Q. Have you consulted with the lawyers? A. Only told him to take charge of the case, and get the record from the district attorney's office.

Q. Who is your lawyer? A. William E. Morris.

Q. Where were you when you were arrested? A. I wasn't arrested. I went down. They came after me and notified me they wanted me in the district attorney's office.

Q. Where were you when you were notified? A. At home.

Q. Where was that? A. 8 Spring street. No official of the department lives with me. The name of the saloon is The Owl. It is a place of good character as far as I know. I have been there every night for a long time, and I know the character of it. When I have spent my two hours a night there, I have spent it with men in the place, Donohue and Gore and different people. I never met Mr. Dooner there. I never had anything to do with him there. I didn't testify to seeing Mr. Dooner

there. I have known Mr. Dooner since he came in the department of buildings. That indictment is the only one that is against me. That is all I know of.

Q. The only one you have ever had against you? A. Well, that I don't know. I don't know whether I had any. I have only been arrested once before.

Q. Only arrested once before? When was that? A. 1889, I believe.

Q. What was it for? A. I don't care about answering.

Q. Were you convicted? A. I wouldn't answer that, either.

Q. Why? A. Because I don't care about it. I don't want to.

Q. You don't want to? A. No, it may——

Q. If you were not convicted you would be willing to answer, would you not? A. I don't know whether I would or not.

The Chairman—The witness was about to say something—that it might incriminate him.

Q. On what ground do you decline to answer that question? A. It might go against me at other times and hurt me.

Q. You are here as a confidential examiner in the board of buildings? A. Yes, sir.

Q. And that is the only reason I would think of asking you a question of that kind, and as a city employee I think you ought to answer it? A. Well, I don't care about answering it.

By Mr. Boland:

Q. How long ago was that? A. 1889.

Q. Who recommended your appointment?

The Witness—In the building department?

Mr. Boland—Yes.

A. A man by the name of James E. March, Republican leader of the sixth assembly district.



By Mr. Moss:

I am still a member of the Republican organization, and of no other organization. I have not been enquired of by my employers concerning my record.

Q. Who are you reporting to as confidential examiner? A. I report to the building department every day on the eighth floor.

Mr. Moss—I want it to be understood that I knew before I called this gentleman that he had been recommended by that same leader, and was a member of that organization.

The Chairman—Yes, I understand so.

Mr. Moss—It makes no difference to me or to you what the political affiliations of these men are.

The Chairman—No.

Q. To whom do you report on the eighth floor? A. A man by the name of Murray. He is the man that takes the time.

Q. You are a confidential examiner. In whose confidence are you? A. I suppose of the heads of the department.

Q. Who is it that you give your confidence to, or that gives you confidence? A. There is no confidence given me. I do special work like——

Q. What kind of special work do you do? A. On cases where it is necessary to go out and do special or private work.

Q. What is the special or particular work in the building department? A. Serving on special cases, or delivering letters—anything; acting as messenger in the morning.

Q. What special letters have you delivered this morning? A. I haven't delivered any this week.

Q. What special work do you do? A. I served on a special case in No. 14 Attorney street.

Q. You served a paper on a man? A. No, I didn't serve it on a man. I nailed it on the door. I have been looking for the man for a day.

Q. What else did you do of a special and confidential nature last week? A. Served another case on No. 486 Cherry street.

Q. How did you serve that? A. I attached that to the door.

Q. Nailed it on with a tack, did you? A. Nailed it on with a tack; yes, sir.

Q. That is all? A. Hunted up the lessee of the property and couldn't find him.

By the Chairman:

Q. You say you hunted him up and couldn't find him. What do you mean? A. I have been following him around; trying to catch him.

By Mr. Moss:

Q. You could not find him? A. No, sir.

Q. Where did you look for him? A. Looked in his place of business, and his home.

Q. How many hours did you spend looking for him? A. I spent in the afternoon from about half-past two until quarter after five.

Q. Then you nailed up the paper? A. No, sir; I nailed up the paper about ten minutes of two.

Q. What other special work did you do this week? A. I can't remember any more.

Q. What other work of any kind did you do this week? A. Folding notices, folding letters, and putting them into the envelopes and closing them.

Q. Are you sure you closed the letters that you folded up? A. I do; yes, sir.

Q. And put stamps on them? A. No, sir.

Q. You licked the flap and sealed them? A. With a brush and water; yes, sir.

Q. How many? A. Well, I never counted them. There was considerable.

By Mr. Fallows:

Q. Three hundred? A. I wouldn't say.

By Mr. Moss:

Q. Two hundred? A. Very near it.

Q. What other work did you do this week? A. Nothing, only appear here; that is all.

Q. Have you had pneumonia this week? A. Not this week; I had a touch of it, though.

Q. Have you been to work every day? A. Except about six days—four or six days.

Q. When were those four or six days? A. Last week was two and the week before, I think, was two.

Q. This week you have been at the office every day? A. Every day; yes, sir.

Q. Why was it that Superintendent Brady told the process server that you were home wrapped up in oil silks when it was attempted to serve you with a subpoena this week? A. I don't know what Superintendent Brady told, or anything. I don't know at all.

Q. You know that you were sitting up and attending to matters all right when you were served?

The Witness—Sir?

Mr. Moss—You were not in bed when you were served? A. No, sir.

Q. Or wrapped up in oiled silk? A. No.

Q. You had been out that day? A. Yes, sir.

Q. You had been out for Mr. Morgan? A. No, sir; I went out with a message for Mr. Morgan.

Q. And after that Mr. Brady told the subpoena server that you were home suffering with pneumonia, wrapped up in oiled silk. Was there any reason for that? A. I don't know anything about it; no, sir.

Q. Was there any reason why you should not have been served with a subpoena as a witness? A. I don't know.

Q. Any reason why anybody should be tender about you? A. No, sir.

By the Chairman:

Q. What salary do you get? A. \$900 a year.

By Mr. Moss:

Q. Are you on the official list? Did you pass any civil service examination? A. No, sir.

Q. Have you ever? A. No, sir.

Q. How is your salary paid to you? A. By the month. Seventy-five dollars a month.

Q. You are on a special list, are you not? A. No, sir; I am on the regular pay-roll.

Q. You get your check the same as other folks? A. Yes, sir.

The Chairman—He says he is “confidential.” That takes him out of the civil service.

Q. I want to ask you where the confidential part comes in. You have folded up some letters, you have gone to see an absentee, you have tacked up two notices this week. Where does the confidential part come in? A. Well, I don’t know what you mean, where the confidential part comes in,

Q. Did you ever know? A. No, sir.

Q. Did you ever have any confidential work?

The Witness—What do you mean by “confidential?”

Mr. Moss—What you call “confidential.”

A. I don’t know any more than special cases, going out.

Q. Just like you told us about to-day? A. Yes, sir.

Q. Was what you told us to-day as your week’s work a fair sample of your week’s work? A. Not altogether; no, sir.

Q. In what would your ordinary week’s work differ from what you have told us about this week? A. Very often I have went out on jobs with the superintendent, or rather, the inspector.

Q. How often have you met Mr. Dooner this week? A. I have met him every day this week.

Q. Where? A. In the office, except——

Q. Have you talked with him? A. No, only——

Q. “Only on.” Have you talked with him? A. No.



Q. You have not spoken to him? A. I have bid him the time of the day.

Q. Is that all? A. Yes, sir.

Q. I want to ask you once more: Do you swear that you have never met Mr. Dooner in the saloon at 212 Grand street? A. I do, yes, sir.

Q. How many other confidential men are there in the department? A. I couldn't tell you.

Q. A number of them are there not? A. I don't know any of them.

Q. Are you the only one? A. I couldn't tell you. I never found out.

Q. You have been there since 1896? A. Yes, sir.

Q. You do not know whether there are any more confidential men or not? A. I know of one or two. That is——

Q. Who are they? A. A man by the name of Edward Roy. I think that is all.

Q. A man by the name of Clark? A. No.

Q. James F. Clark? A. I don't know him.

Q. What do they do? A. I don't know what Mr. Roy's duties are. He is on the fourth floor.

By Mr. Hoffman:

Q. How long has he been there? A. Been there before I went into the department. He was under Mr. Constable.

By the Chairman:

Q. How much salary, did you get, to start with? A. Twelve hundred dollars a year.

By Mr. Moss:

Q. You got \$1200 a year when you started and were cut down to \$900? A. Yes, sir. I couldn't tell you for what reason. I got a notice that my salary was to be reduced \$300. Other men got notices, I couldn't say how many. I don't know whether other men had their salaries raised in the department. I have

told all the work I do there as I think of it now. I do not drive a wagon.

Q. Never have driven a wagon? A. Yes, sir, I have.

Q. For Mr. Dooner? A. Yes, sir.

Q. What wagon was that? A. The department wagon.

Q. When Mr. Dooner wanted to go around, you would drive him around? A. On jobs, yes, sir.

By the Chairman:

Q. What kind of jobs? A. Building.

By Mr. Moss:

I never drive him up to Con Daly's. I do not know Con Daly. I never heard of him going to Con Daly's. I couldn't tell you where Con Daly's is.

Q. Did you ever hear of Con Daly's? A. Only in reading the papers, that is all. I stopped driving that wagon for Mr. Dooner some time ago. I can't exactly say. The latter part of last summer, I think it was. He did not tell me to stop. He said there was a driver to be appointed. I couldn't say whether that was the reason my salary was cut.

By the Chairman:

I think it was cut before that time. I am not positive.

By Mr. Hoffman:

Q. When you were appointed as a confidential clerk in the building department were you required to pass any civil service?

A. I was confidential examiner.

Q. You were not required to pass any civil service examination? A. No, sir.

Q. Since January 1, 1898, have all persons who were applying for positions been compelled to pass civil service examinations?

A. I don't know.

Q. You do not know anything about that? A. No, sir.

Q. But you do know, as a matter of fact, do you not, that you cannot be removed, unless charges be preferred against you, on account of the civil service law? A. I believe so.

Q. You know that? A. Yes, sir.

By Mr. O'Sullivan:

Q. You served as a delegate in the Republican county committee of this year, did you not? A. At the State convention.

Q. As a Republican delegate? A. Yes, sir.

THOMAS J. BRADY, being duly sworn, testified as follows:

Examined by Mr. Moss:

I have not appointed any confidential examiners since I have been commissioner. I have four confidential examiners, Mr. Elmer E. Roy, Mr. William Nihill, Mr. Barnes. I don't recall the fourth name without referring to the record. It is not Mr. Hackett. Mr. Hackett's position is that of inspector. I have some more confidential inspectors there. You spoke about confidential examiners. I wish to explain the difference between confidential examiners and confidential inspectors. Any person could be a confidential examiner, but the parties that are appointed confidential inspectors are qualified for inspector's work and do that work. I have appointed some confidential inspectors, I think eight or nine. There are no confidential inspectors lasting over from the previous administration; confidential examiners are, I believe. The confidential inspectors are all of my appointment. We provide for the payment of their salaries on a regular appropriation, on the regular pay-roll. It is not necessary to issue bonds for them. I don't know as I have got them all. I will see if I have got them here for you. There is Mr. Harry Cole; there is Mr. Nicholas J. Ravell; there is—I can't tell you their names at the time, Mr. Moss. I will identify them as far as the record is concerned. There is Anderson, Mr. Young, James F. Clark, he is confidential inspector of the board of buildings, at \$1800 a year; David Campbell, Jr., confidential stenographer, at

\$1200, that is the board of buildings. David Campbell, Jr., is the son of Commissioner Campbell. I never heard that he endeavored to get into the department through a civil service examination. I do not know that he failed on a civil service examination and then was appointed confidential stenographer. Patrick J. Andrews; he is the former assemblyman; Matthew E. Heeley. He is not confidential inspector now. He is an inspector of plumbing; passed the civil service, and I appointed him last week as inspector of plumbing, at the same salary; \$1500. He passed the civil service examination and I transferred him, or he resigned from the confidential inspector's position, and I appointed him inspector of plumbing. Nicholas J. Ravell, Henry O. Cole, Frankenberg, those are all down at \$1500. Mary F. McEnery. She keeps the reports from the inspectors. There is a tabulation kept to know the value of the work that is done by the inspectors—the statistical report. She checks over those books, and looks over the reports, and knows what is going on, of all the inspectors. She is not inspecting work, but simply a tabulator of reports and watches after the inspectors' work. She is not a chief of inspectors. She is kept away from them, that no person can know what she is doing, other than what reports may be forwarded to me; and she may be copying papers at times, and other times looking over the records from the inspectors' books. George T. Young, William C. Anderson, James McKenna, Charles Seymour, are confidential inspectors at \$1200. These have all been appointed by me. Joseph F. Gibson is a confidential examiner. That is the fourth one that I didn't recall his name. I remember when I was superintendent of buildings before.

Q. Now, in the borough of Manhattan, how many more employees have you than you had then? A. I can't tell you the exact number. Probably a hundred and twenty-five more than I had then. Salaries have been increased in my department. Some have been reduced.

Q. Why was the salary of Nihill reduced? A. The payroll that was transferred to me on the 31st day of December, 1897—to con-



tinue the same class of employees on the same salaries would increase my appropriation by over \$25,000. To continue that payroll as transferred to me on the 1st of January, 1898. The general reduction was to look back and see what increases had been made; and where one man had been increased from fourteen hundred dollars to twenty-seven hundred dollars, he was reduced back to fourteen hundred dollars. The average reductions was about \$100, \$200 or \$300, to make up that \$25,000 that that monthly payroll of December, 1897, would be in excess of the appropriation that I had to operate the department in 1898. Since then I have had more liberal appropriations. In 1899 I have got an increase of \$22,000 for the boroughs of Manhattan and the Bronx, so that I have been able to increase my force and to increase the salary list; I think about, probably, twenty-five, the 1st of January, 1899, have had their salaries increased. The amount, approximately, of the increase is in the neighborhood of \$6,000. I did not restore the salaries of the men whom I reduced to make that temporary contingency in December, because I didn't find them worthy of the increase. It was altogether a matter of worthiness.

Q. Why do you retain unworthy men in positions of confidential examiners? A. I don't retain them when I know that I have them.

Q. Mr. Nihill, whom you have designated as an unworthy man, is a confidential examiner? A. I haven't designated him as an unworthy man. I found that man attending to his duties in anything that I assigned him to do, since I went back to the department.

Q. Then you except him from the general remark you have made? A. No, sir.

Q. Why have you not restored his salary? A. For the reason that I didn't think he was worthy, for the service he was rendering the department, any more than other men performing practically the same class of work.

Q. Let us see: Confidential Examiner Elmer E. Roy was getting twelve hundred dollars? A. And he was formerly getting eighteen hundred dollars, and I reduced him from eighteen to twelve.

Q. Joseph F. Gibson is getting eleven hundred dollars? A. He is an iron inspector, and doing inspector's work, the same as the other inspectors.

Q. Those are the reasons for the differences? A. Yes, sir. Different classifications and different labors are being performed by those people under those classifications.

Q. That was not the reason you gave for reducing Mr. Nihill's salary; it was reduced for a temporary necessity? A. No, sir; it was not reduced for a temporary necessity. It was reduced for the purpose of getting inside the appropriation, and during my year's administration of that department, I used my own judgment as to where I would recognize merit. I did not have any consultation with any persons in the city government with reference to the increasing of salaries in my department. I do not know that salaries have been increased in the different departments right along. All I do know is about my own department. I do not follow the records. I do not know that just about the time that I was increasing salaries in my department salaries were being increased in other departments. I have seen squibs in the papers about the general increase of salaries in certain departments, but I know nothing about them.

Q. If it is a fact that increases have been general with the heads of every department, you cannot account for the fact that everybody had the same idea at the same time? A. No; I can't tell you anything about the others. I acted on my own responsibility. I did not tell anybody I was going to increase the salaries. I was first mentioned or discussed, to my knowledge, as a candidate for the position I now hold, some time between November, 1897, and December, 1897; some time during that month. I talked about my appointment with hundreds and hundreds of people, but with no person specially, until the 31st of December, when I received notice from Mr. Croker to meet him at the Murray Hill Hotel, and Mr. Van Wyck and other parties were there, and I went there and they asked me would I go down and take the department, as I had it before. Mr. Van Wyck and Mr. Croker both asked me if I would go down and take the department. They were both together, if I remember right, in the Murray Hill Hotel, and together they asked me if I would take the old department, and it was spoken of before that. I saw Mayor Van Wyck somewhere, going around the city; I don't know where I met him; but I met him at some place. He spoke the same thing. He said he would be glad if I would go back.

Q. You were not the only candidate for any position, that was present at that hotel on that day? You met other gentlemen

who were receiving the same consideration? A. I don't know what they were receiving. I know I came in there like a drowned rat, and went away as quickly as I could.

Q. Did you meet any other gentlemen there who have been appointed heads of departments? A. I didn't wait for anything.

Q. Did you meet them? A. I met a lot of people that have been appointed since, but I didn't know what their business was there, any more than they did mine.

Q. What persons that have been appointed since did you meet there? A. I couldn't recollect that.

Q. Did you meet any police commissioners there? A. Not as I recall.

Q. Did you meet any health commissioners? A. I couldn't tell you, if you will allow me, how I came in there. I came in there in a very dilapidated state. I was wet and dirty and I was ashamed to be seen in such a combination, and I was glad to get out.

By the Chairman:

Q. Were you sent for? A. I was sent word to come down there the night before New Years, and I went down there on the 31st of December, at noon. I met a lot of people there I knew, and as soon as Mr. Van Wyck and Mr. Croker saw me, they asked me if I would be down there the next day and be sworn in, and I said yes.

By Mr. Moss:

Q. What do you mean by saying that you didn't want to be seen in such a combination? A. I mean, I didn't want to be seen in such an appearance, with my clothes dirty and wet, and everything wet; I was in such a bedraggled condition, and I didn't want to be seen by those men in such a position. I looked like a man that had been carrying a hod, or something else.

Q. Were Mr. Croker and Mr. VanWyck in company with those other gentlemen at the time you were spoken to? A. The whole place was filled, the hotel lobby was filled, and people were walking back and forth, and it was full there. I don't know who all, but there was a crowd of people there.

Q. Were you not looking for the place before that day? A. I said that I spoke to Mayor Van Wyck about it once before.

Q. Was he the only person you spoke to? A. I might have spoken to Mayor Grant, or I might have spoken to Mr. Croker, if I met him. I might have spoken to Mr. Croker or any person I met who would discuss it with me. I talked with hundreds of people, but they always first brought the subject up to me. I refused to accept it. My wife opposed my going back to the department. It was a strenuous effort for me to break away from my wife and my family ties, and accept the position.

Q. How long was that before the indictment against you had been dismissed? A. I don't know when the indictment was dismissed.

Q. It was dismissed, as a matter of fact, was it not? A. I am so informed.

Q. There was no trial, was there? A. No trial; never heard anything of it.

Q. It was dismissed on the consent of the district attorney? A. I don't know on whose consent. I never inquired. I had no occasion to.

Q. There was no inquiry made of you at the time you were asked to take this position, about that matter, was there? A. No, sir.



ROOMS OF THE BOARD OF TRADE, No. 203 BROADWAY,

NEW YORK, *Monday, April 24, 1899, 10 A. M.*

The committee met pursuant to adjournment, all the members being present except Mr. McEwan.

JOHN W. EASON, being duly sworn, testified as follows:

Examined by Mr. Clarke:

I am a captain of police in the city of New York. I have been in the service thirty-five years next June. Prior to the consolidation I was in the Thirteenth precinct, borough of Brooklyn. I am now in command of the Fourth precinct, the Brooklyn bridge. The precinct is just confined to the bridge, from shore to shore, and the approaches, upstairs and down. I was put in command of that precinct the 22d of September last year. I was transferred from the borough of Brooklyn to the command of the bridge police. My station is corner of Nassau and Washington streets, borough of Brooklyn. There is a book called the blotter kept in each station, and that is a record of the proceedings of the precinct, and it is kept officially at the desk, and is an accurate transcript of what goes on; supposed to be. It contains the rollcalls. If we find on a given date, at a given rollcall, the names of people who were present, that is a truthful and accurate statement of the men who answered to that rollcall. A police captain is supposed to be always on duty, under the law. I find in the blotter, under date of March 1st, a rollcall at 4 p. m., in which it states that I was present, the rollcall of the first platoon, Captain John W. Eason in command, and who called the roll. We do not have a 6 o'clock roll at the station, 8, 4 and 12, 12 at night. The other stations have a 6 o'clock rollcall. This 4 o'clock call on the bridge takes the place of the ordinary 6 o'clock call. You see, we work the bridge with three platoons, eight hours each. There are no saloons on the bridge, and no poolrooms, and no flash houses, and very little loitering. We do not have any trouble with fast women. It is an easy precinct, in those regards. We have no trouble of that kind in that precinct.

Q. Did you make a little address to the officers at that 4 p. m. rollcall, on March 1st? A. I don't remember it.

Q. Are you in the habit—— A. I do. I mostly every rollcall talk with the men. That is, if it is necessary.

Q. What is the general nature of your talk with the men at these rollcalls? A. The instructions and orders from headquarters.

Q. Are those instructions and orders entered on the blotter? A. Yes, sir; they are copied. There are books for that purpose.

Q. They do not go on the blotter? A. No, sir.

Q. You do not recall having had any particular talk on the night of March 1, 1899, at the 4 p. m. rollcall, with the men?

A. No, sir; I do not. I am in the second inspection district. The inspector in charge of that district is Inspector Cross—Adam E. Cross.

Q. When did Inspector Cross call the captains of his precinct together in the latter part of February? A. I don't know that he ever called them together.

Q. Did not the captains in that inspection district have a meeting in the latter part of February? A. No, sir; they did not. If they did I was not present; never heard of it. I never heard of a meeting called about February 20th or 25th, of the captains of that inspection district. I have heard about the Captains' Benevolent and Endowment Association, that was formed, I think it was, in April—March or April—of this year. There had been no such association prior to that. It is what they call the New York City Officers' Endowment Association. It was organized, I think, in April. The captains and inspectors and deputy chiefs and chief belong to it. Sergeants do not belong to it.

Q. Do they have an association of their own? A. That I don't know anything about. Roundsmen do not belong to it.

Q. Do they have an association of their own? A. That I don't know. Patrolmen do not belong to it.

Q. Do they have an association of their own? A. Well, I think they have. I know I belonged to the Patrolmen's Endowment Association in the borough of Brooklyn. Whether it has connection with New York now or not, I don't know. This Officers' Benevolent and Endowment Association was formed in March or April of this year—March of this year, I think it was. It is the Officers' Endowment Association. I took no interest in pend-

ing police legislation at Albany during the first part of this year; nothing more than the rest of the force did.

Q. The rest of the force took a good deal of interest in the legislation that was pending at Albany, did they not? A. As far as reading the papers and keeping posted; yes, sir. I knew that certain bills were pending up there which, to some extent, reorganized the force. I knew that there was one bill which provided for a single-headed force and abolished the bi-partisan board. I say that I knew of no meeting of captains. I have not attended any meetings of captains this year.

Q. How did you come to belong to the Officers' Benevolent and Endowment Association? A. What I would like to explain—there has been two or three meetings of captains and officers of the department, the Metropolitan Burial Association. That was a monthly meeting; and then a new meeting for the purpose of electing officers for the coming year. Then we had a meeting of this—of the Endowment Association, and that was to take action in the matter of Captain Worth's death. The Burial Association is a different organization entirely. The whole department belongs to it; every man. It was organized in the old Metropolitan police department. I am one of the original members. That has been existing about, I suppose, thirty years now. The object of that association is this: The members of it contribute \$1 apiece. They have got a plot in Cypress Hills Cemetery and a monument erected in the center of that plot. One of the meetings we had in connection with the association—I think his name was officer Hayward, who got killed in Santiago, I believe, and was without means of support, and the association kindly allowed his burial in that plot. He was not a member. That association is for the purpose of burying officers who are poor. That purpose has nothing to do with the purpose of the Endowment Association. That is officers. The purposes of the Endowment Association are the mutual benefit of the officers. On the death of a member of the organization, or his retirement, or his dismissal, he receives—that is, of course, his family receives—the benefit of \$1,000, and if he retires or is dismissed from the force he receives \$1,000 in cash. In Captain Worth's case, illustrating this— (Interruption.) There are provisions of law providing for retirements and for pensions, paid

out of a fund, the pension fund. That fund is made up of fines on officers, and a certain percentage paid from the liquor tax license fees and other sources; and that is under supervision of law, and makes provision for retirement and death.

Q. And no provisions for endowment and benevolent purposes had been made by the officers until March of this year? A. Yes, sir; I belong to the Officers' Association in the borough of Brooklyn; and that is composed of the sergeants and captains in the borough of Brooklyn; but since I have joined this organization in New York, I have not been called upon for an assessment in Brooklyn. I never heard of a benevolent and endowment officers' association in New York, until March or April of this year. I say that I do not remember whether I had any talk with my officers at rollcall, on March first.

Q. Did you not say to the officers that night at rollcall, that they must help you pay your assessment to the Officers' Benevolent Association? A. I did not.

Q. Did you not say to the patrolmen that, in view of the fact that there were no saloons or poolrooms or other establishments upon the bridge, you could not pay your assessment unless they helped you? A. I did not.

Q. Did you not ask those officers to pay you \$5 apiece to help you pay your assessment? A. No, sir, I did not.

Q. Was not the amount of your assessment \$500 to that association? A. No, sir.

Q. How much was it? A. I have never been assessed. I have paid nothing.

Q. Under what terms do you belong to the Endowment Association? A. I tried to explain to you.

Mr. Clarke—You have the opportunity now.

The Witness—If there is anything outside of what I am telling you, there was one call made on that association since its organization, and that was in the case of the death of Captain Worth.

Q. Yes; but that was under the Burial Association, was it not? A. No, sir.

Q. There was a direct assessment of \$15.75 to pay for the death of Captain Worth? A. No, sir, I think my assessment was \$13.90. It brought it up to \$1,000, and his widow got that \$1,000.

Q. Was not that under that other association?



The Witness—Under the Burial Association?

Mr. Clarke—Yes.

A. No, sir.

Q. Was it not under the Brooklyn association? A. No, sir, it was not. That is the New York officers.

Q. Do you mean to say that all the New York officers contributed a special assessment for the burial of Captain Worth?

A. Yes, sir.

Q. You did? Yes, sir.

Q. Then there is no initiation fee required in the Officers' Benevolent Association? A. The Officers' Endowment Association, yes, sir.

Q. Five dollars? A. Five dollars initiation. That was the first thing we done, was to take and pay that \$5. The next thing was that assessment.

Q. Where did you pay that? A. I forwarded it to Inspector Cross, the secretary of the organization.

Q. When did you do that? A. I don't exactly remember. It was done. I don't exactly remember. I have got a receipt for it over in the office.

Q. You do not remember when it was done? A. No, sir.

Q. And you say that was all that was asked you? A. That was all.

By the Chairman:

Q. Was that paid in cash? A. Yes, sir. That was \$5 initiation, and \$13.70 or 80 cents that I sent over.

Q. You did not pay it personally to Inspector Cross? A. I sent it over to him.

Q. By whom? A. Well, now, I don't remember whether it was one of my men or—I don't know. I have got the receipt for the \$13.70, and I have got a receipt for the \$5 for initiation on account of membership. I do not know by whom I sent it; I don't remember just now.

By Mr. Clarke:

Q. Was this assessment \$13.90? How did you get notice of that assessment? A. I received that notice from the secretary of the association.

Q. In writing? A. No, it was typewritten. The secretary's signature was attached to it, stating that Captain Worth was dead, and that my assessment was so much.

Q. Have you got that notice? A. Not with me now. I can produce it.

Q. Have you preserved it? A. Yes, sir.

Mr. Clarke—I would like to know the date. Will you look it up and let me have it.

The Witness—Yes, sir; I will. I have got my initiation card. I have got that receipt. I think the receipt was signed by Chief Devery. He is our president and Adam A. Cross is our secretary.

By Mr. Clarke:

The chief is president of this association, and John Mackellar is the vice-president, I believe, and William McLaughlin is a vice-president, I think. Mackellar was deputy chief, and he was formerly superintendent of Brooklyn. McLaughlin is acting deputy chief now. Cross is an inspector, and he is the secretary. I think McLaughlin is treasurer.

Q. Do you know whether any books are kept? A. Oh, certainly.

Q. What? A. Oh, there ain't no doubt about it. I know Inspector Cross is very particular, as far as books are concerned. The salary of a captain is \$2,750 a year. One month is \$221, and \$228, and \$211. That is the twenty-eight day month, in February; and a thirty day month it is \$221, and thirty-one days \$228. If I was called upon suddenly to pay an assessment of \$500, I would have some difficulty in paying it out of my salary.

Q. Are you quite positive that at no time, say since the 20th of February, 1899, you have had any conversations with your patrolmen, at rolleall or otherwise, in which the question of paying an assessment to the Officers' Endowment Association has not been talked about by you? A. I positively say no. I have had no conversation with any of them, in any regard, no conversation whatever, because it is a matter that didn't concern them. I have made no suggestion that by reason of the peculiar character of my precinct I would have to be helped out on such a payment, and I have not suggested, made no suggestion, of a contribution of \$5 apiece to enable me to pay such an assessment.

Q. And you also say that, so far as you know, no meetings of captains in your inspection district was called? A. No, sir; I think if there was a meeting of the captains called, I would have been there. I was not present at any such meeting. In my inspection precincts are Captain Westervelt, Captain Vreeland, Captain Copeland, Captain Hogan; I think Captain Diamond. I

ain't very well acquainted, to tell you the truth. They are all in the borough of Manhattan, the same as myself. My inspection district does not run over into Brooklyn.

Q. I have asked you specifically in regard to a meeting of the captains called in your inspection district. Have you been present at a general meeting of the captains, since the middle or end of February? A. Yes, sir; I have, in connection with those associations; the Burial Association and Officers' Endowment. The meeting was held in police headquarters, in the courtroom. Chief Mackellar presided at one meeting; and the other meeting—I think that was the election, and then Chief Devery was elected. I do not recall the date of those meetings. I can't recall them. I think they were in February. The Brooklyn captains were present, that was universal. I think Captain Knipe was present.

Q. Was there any discussion at that time about ways and means? A. No, sir; nothing except in relation to the plot—there was some matter brought up in the Burial Association about the plot being cared for.

Q. Was that a meeting of the Burial Association? A. Yes, sir. You have the two associations, I think, confounded.

Mr. Clarke—I am trying to disentangle them.

The Witness—I will try to make it plain. You see, the Endowment Officers' Association—that includes the chief and deputy chiefs, inspectors and the captains; and, as I tell you, that is for the mutual benefit for those officers.

Q. Benevolent and endowment? A. No; there is nothing benevolent about it. It is a matter of endowment.

Q. It is a matter of business, pure and simple? A. Yes, sir; if a man retires to-morrow, or he is dismissed, the other captains get together, as they have done in Captain Worth's case. They contributed \$13.70 apiece, I think it is, and Mrs. Worth received \$1,000 in cash. That is all the object, as far as that association is concerned. The Burial Association is the Metropolitan Burial Association, and they are the ones that have this plot at Cypress Hills.

Q. How is that supported? By initiation fees? A. It is a contribution of \$1 for any man on the force. It makes him a life member, and entitles him to burial there, and everything.

Q. This meeting that you say you had at headquarters; was that the Burial Association? A. One meeting was the Burial

Association. Chief Devery was elected president of that association, and I think Deputy Mackellar was elected vice-president.

Q. Then you had another meeting of the other association, did you?

The Witness—Of the Endowment?

Mr. Clarke—Yes.

A. Certainly, we had, and that was held at headquarters.

Q. I ask you if Captain Knipe was at that meeting? A. That I couldn't tell.

Q. You do not know? A. No, sir; I do not.

Q. At that meeting—— A. I know there was one meeting over there that Captain Knipe and I went over together on the cars, but I don't know which meeting that was.

Q. At that meeting, was there any talk about ways and means? A. No, sir.

Q. Was there any talk about assessments? A. No, sir.

Q. Was there any talk about money? A. No, sir; not a——

Q. Did anybody protest against the payment of money? A. No, sir.

Q. Was anything said about how much it would cost to run the association? A. Cost to run—no, sir.

Q. Was anything said as to how much it would cost to provide for the business for which the association was formed? A. No, sir; there was not. No, sir. We knew that.

Q. How did you know that? A. That was the Endowment—the Endowment Association; and we knew just what the organization was for and what our assessment was to be.

Q. What was your assessment to be? A. When it was equalized, it was \$13.70.

Q. What do you mean by equalized? A. Each man was to pay that amount. I know my share, in the one case that we were called on for an assessment, was \$13.70. That was in reference to Captain Worth's death. That is all there was.

Q. You were only to pay when an assessment was laid? A. Now, counselor, you remind me. There was talk in relation to stationery. There was some stationery there, and a bill for the stationery was presented. I think it amounted to \$30 or \$40. That was for the use of the secretary. That was all there was that I heard.



Q. I do not think we have got it straight yet, as to how this assessment was to be laid, and who was to pay it, and how much it was to be. A. I have tried to explain that to you.

Q. What was the method of getting at it? How was the \$13.90 arrived at? A. The notice I received was from the chief, stating that an assessment of so much had been ordered in the case of the death of Captain Worth. That is all there was to it. I would get the same notice to-morrow if another captain died. I would pay that amount for each captain. That is arrived at—the \$1,000 is divided by the number of captains. That was the sole topic of conversation. No captain objected to that, not a particle; not an objection.

Q. If there was any objection or talk about assessment, it must have been something else? A. If there was, I certainly would have heard it.

Q. Did you not hear?

The Witness—About any other assessment?

Mr. Clarke—Any other assessment?

A. No, sir.

Q. But this first meeting of this new endowment association was at the end of February? A. I think it was in February.

Q. When legislation in regard to the police was an active topic of conversation, and of interest in the force? Is not that so? A. Well, I don't know. I suppose the legislature was in session at that time.

Q. And those police bills were pending? A. Yes, sir; I believe they were.

Q. And the new force had been organized a year and three months before? A. Yes, sir.

Q. And it was not until the end of February, when this police legislation was pending in Albany, that this endowment association was formed, was it? A. Oh, it may have been talked about long before.

Q. But it had not been formed? A. No; hadn't been formed.

Q. The police legislation and the Endowment Association were coincident? A. I don't know that it was. I am telling you just the facts in the matter. The only assessment that was laid on me was thirteen dollars and I think seventy cents. That was the only assessment.

Q. Can you give us any reason why, although the force had been made the Greater New York force on the 1st of January, 1898, no proceedings were taken to form an Officers' Endowment Association until the end of February, 1899? A. Well, I don't know. I could not give any reason.

Q. No reason? A. I know it was just as——

Q. And although the New York police force had been in existence for many, many years, no such association was formed until when certain police legislation was pending in Albany? A. I don't know whether there was or not, counselor. They may have had an organization.

Q. I understood you to say that there was no such association in New York? A. No endowment, that I know of. Not that I know of. There was a burial. That Burial Association, I told you, had been in existence for thirty years.

Mr. Clarke—We have not got that clearly apart.

The Witness—Yes, sir.

Mr. Moss—One dollar initiation fee makes a life member for burial?

The Witness—Yes, sir.

Q. Now, we will let that alone. But this other association was not formed until the end of February, 1899, when certain police legislation was pending at Albany, and when the Senate was very close. That is a fact, is it not? A. Well, yes; we will say that is the fact. But the matter had been talked about all winter.

Q. Talked about all winter? A. That is, amongst the men.

Q. Since the 1st of January, when the legislature was in session? A. Yes, sir; and before it.

Q. How long before? A. Oh, I don't know. Some time before.

Q. Who talked to you before? A. I couldn't tell you exactly. Men there in the headquarters.

Q. Now, captain, is that really the fact? A. Yes, sir; it is, counselor.

Q. When was it first talked about? A. I think it was in November or December. There was some meeting there. The chief had us there in relation to something. I don't remember what it was.

Q. Was not the talk that the officers had to stand together? A. No, sir. Well, stand together?

Mr. Clarke—Yes.

The Witness—Yes, sir; I think the officers——

Q. And that the force must be a unit? A. Well, I should think they ought to be a unit.

Q. And that they must stand together? A. Yes, sir.

Q. For legislation, or any other attack made upon them? A. No, sir. There was nothing said about legislation; but you asked me if they stood together——

Q. You recognized the phrase, when I said they ought to be a unit? A. I think we ought to be a unit. I think the force should be a unit in everything.

Q. You remember the phrase? A. Yes, sir.

Q. That the force should be a unit? A. Yes, sir.

Q. That is one of the chief's phrases? A. It is on my initiation card, my card of membership of the Endowment—our colors are there; and it says: "Faithful unto Death;" and I believe it every day.

Q. And your Endowment Association was in order to enable the force to be a unit, was it not? A. No; the force is not included; it is the officers.

Q. Well, that the officers should be a unit? A. Yes, sir. That motto is on to the—it is on the flags that the people of New York city presented to our force—"Faithful unto Death."

Mr. Clarke—Undoubtedly; and so they have been faithful unto death. The record of the police force in New York, in meeting disorder and mobs, is magnificent, and nobody can point the finger of scorn at it. That is true.

The Witness—Yes, sir. This Endowment Society is not a secret organization. There is no formula of admission of members that I know of. There is no oath taken. I took no oath. I have got my papers in connection with the whole business, since I joined, and there is nothing that I would hesitate a minute in showing you or any other gentleman.

JAMES KANE, being duly sworn, testified as follows:

Examined by Mr. Clarke:

I am on the police force. I have been on the force going on sixteen years. I am an inspector of police. I was promoted to the inspectorship on December 9, 1898. Prior to that time I had been captain. It is my case in which there has been some question about the promotion. I did not pass the civil service examination, and there has been an order for an examination now which is open to all the captains. I still regard myself as inspector, though I will contest that, as to the regularity of my appointment. The fifth inspection district is mine, my captains are Captain Brown, of One Hundred and Fourth street; that is the Twenty-ninth; Captain Haughey, of the Thirtieth precinct; Captain Steinkamp, of the Thirty-first; Captain Sheehan, of the Thirty-second, and Captain Kirchner, of the Thirty-third; and the Fifth district police court also, the Magistrate's court, sergeant Lovell.

Q. You called a meeting of the captains of your inspection district on the 20th of February, did you not? A. No, sir, not to my knowledge.

Q. Did you not send a call, a telephone call, which was entered on the blotter of each precinct in that inspection district, for a meeting of captains at the Thirty-first precinct stationhouse in West One Hundred and Twenty-first street, for 8.30 p. m., on the night of February 20th? A. Oh, yes. Yes; I met the captains there. Yes, sir, that is right.

Q. And that call was sent out by you? A. Yes, sir.

Q. What did you call them together for? A. Well, whatever it was, it is on the books. I don't remember.

Q. You remember? A. No, I do not.

Q. Do you not? A. No, sir.

Q. When I read the particulars of it, you recalled it that you did call them together that night? A. I remember now that I did. And I was there. But I don't remember what the call was for, but I suppose it will be on the books, whatever it was.

Q. How is it that you remember that you sent out the call and that they were there, and you do not remember what you called them for? A. I was there. I know that, now. I can remember being there.

Q. You can remember the captains being there? A. I remember the captains.



Q. You remember you sent out a call for them? A. I remember that.

Q. Can you remember that that was entered in the telephone blotter at the station? A. I don't remember whether it was. That I don't remember.

Q. You did recall it, when I read it? A. That I don't know.

Q. You do not know what you called them for? A. That I can't remember now, no, sir.

Q. Is it a frequent thing to call the captains together in your inspection district? A. Yes, sir.

Q. How often do you do it? A. Any time we want to call them together.

Q. I understand; but how often? A. Maybe I have called them together two or three times.

Q. Two or three times since you have been in charge? A. Yes, sir.

Q. Is that so many that you cannot recall what the particular business was that influenced you to call them together? A. Well, whatever it is, it will be on the books.

Mr. Clarke—We have not the books here.

The Witness—I can't recall. I don't remember.

Q. You cannot remember that? A. No, sir.

The Chairman—What was the date of this meeting?

Mr. Clarke—February 20th.

The Witness—The 20th.

By the Chairman:

Q. Who suggested the calling? Was it of your own motion? A. My own motion.

Q. What did you have in mind when you called them? A. That I don't know. I can't remember. And I don't want to swear to anything unless I am sure.

Q. That is right; but does it not strike you as being a trifle remarkable that of your own motion you called a meeting of captains? A. It may not have been my own motion. I won't swear to anything that I ain't positive of.

Q. You will not swear it was your own motion? A. No, I will not.

Q. It may have been Chief Devery's suggestion? A. It may.

Q. Do you recollect whether it was or not? A. No, sir.

Q. You have no recollection on that subject? A. I have no recollection on that subject.

Q. Do you mean to have us understand that you have not the slightest impression at this time as to the purpose of that meeting? A. Yes, sir.

Q. That is the best information you can give us? A. That is the best information I can give you.

Mr. Clarke—Have you finished.

The Chairman—Yes, I apologize for the interruption.

Mr. Clarke—Not at all. I am the servant of the committee and its mouthpiece for a little while.

By Mr. Clarke:

Q. Inspector, did you take any interest in pending legislation at Albany, this winter? A. No, sir.

Q. Not the slightest? A. Not the slightest.

Q. You did not care whether it was a bi-partisan board or a single headed board? A. No, sir.

Q. You did not care whether the present chief was kept in command or a new chief made? A. No, sir.

Q. You did not care whether there was a Metropolitan force or a State constabulary force? A. No, sir.

Q. You did not care whether your salary was put up or down? A. Well, I don't know anything about my salary—I wouldn't like my salary to be put down.

Q. No; but that would be the only kind of police legislation which you would care anything about, would it? A. No, sir, I didn't interest myself in police legislation at all.

Q. And you did not even know there was any such thing going on at Albany? A. Yes, sir; read it in the papers, yes, sir.

Q. Did you not talk about it? A. No, sir.

Q. You did not, as one of the superior officers of the great police force of this town, consisting of 7,500 men, talk with your superior, or your associates about legislation which contemplated so radical a change in government, as the bills pending in Albany? A. No, sir.

Q. You took no interest in them whatever? A. No interest at all.

Q. What did you call your captains together for? A. That I don't know. It is on the books. The books will tell. My books are kept right up.

Q. Supposing it is not on the books? A. Then I can't—I won't swear to anything—

Q. What books would it be on? A. It should be on our telegraph blotter, if I called them together.

Q. Wasn't it the telephone blotter—it is the telephone blotter, is it not? A. Yes, sir, telephone blotter.

Q. What would that show of such a call? A. That would show that I called them together.

Q. That is all, is it not? A. That is all.

Q. It would not show the reason? A. No.

Q. And there is no book, blotter or record anywhere which would show the reason for calling them together? A. No, I don't think there is, no, sir.

Mr. Clarke—Then we will have to fall back upon the officer's recollection for the purpose of the meeting.

The Witness—The officer's recollection—I don't know.

Q. Is it not a somewhat unusual thing to call the captains together? A. No, sir.

Q. By an inspector? A. No, sir.

Q. Is it not only done when there is some matter of grave moment upon which you want to consult them about? A. No, sir.

Q. As to discipline? A. Well, yes, sir.

Q. Or fire, or riot, or something in which you have got to consult with your captains? A. No, not necessarily.

Q. Or to give them some orders as to the suppression of certain places? A. That is—some orders.

Q. Was there any such purpose as that for which you called them together? A. No, sir, not to my knowledge; I won't swear to anything that I am not sure.

The Chairman—You have stated that already. We understand it.

The Witness—I understand. I will do anything I can.

Q. We are trying to see how much you can swear to? A. Yes.

Q. And neither the committee nor myself want you to advance one hairsbreadth beyond the actual facts? A. All right. I will go right ahead.

Mr. Clarke—We will treat you with entire fairness, and allow you the fullest explanation.

The Witness—All right.

Q. I ask you whether you call to mind that that meeting was for the purpose of instructing the captains as to their duties upon

any particular line of police work? A. It must have been. It could not have been anything else.

Q. But was it? A. That I won't swear to. This inspection district is from Ninety-sixth street on the east side to Harlem bridge and from Eighty-sixth street on the west side to the Speedway. That is the northern part of the city of New York. The district is rather a quiet district. There are not many disturbances occurring up there, not any particular police matter which would call for consultation with my captains is likely to occur; no threatened strike or riot; not since I have been in command; not since I have been there.

Q. No special orders to give, as to the suppression of any kind of vice? A. Yes, sir; we have to do that.

Q. What? A. Suppression of any kind of vice in our district.

Q. Your general orders? A. Our general orders, yes, sir.

Q. There was no special occasion for any special order in that regard, that you recall? A. No, sir, not one.

Q. There was no outbreak of burglars up there, which caused you to call the captains together, and give them special instructions? A. No, sir.

Q. Can you imagine or recall any possible reason for calling the captains together on the 20th of February, 1899? A. I cannot.

Q. Not one? A. No, sir.

Q. And you did not care anything about what legislation was going on in police matters in Albany? A. No, sir.

Q. And you were not directed by Chief Devery to call your captains together for any purpose? A. Not to my knowledge, No, sir.

Q. Can you recall any other special meetings that have been held by your captains under your instructions, within the last six months? A. Not any.

Q. Not any? A. No, sir.

Q. Therefore we have one meeting of captains in your inspection district, called by you, only, and you cannot tell us what it was about? A. No, sir.

Q. Do you know whether any general order was given to inspectors to call their captains together for a meeting about that time? A. No, sir.

Q. How often do you go down to headquarters? A. Every day in the week.

Q. How often do you see the chief? A. Every day in the week.



Q. Did you see him every day in the week during February?

A. Every day in the week. I saw him most every day in the week. I won't swear—maybe some days I would be away on business, and I would not see him; but I am at headquarters every day in the week.

Q. How often do you see the commissioners? A. Well, I haven't seen the commissioners, to speak to any of them, twice since I have been appointed.

Q. Your business, then, is with the chief? A. The chief. We go there every day at twelve o'clock to see the chief.

Q. Do you go there with other inspectors, or do you have interviews with him alone? A. With other inspectors; all the other inspectors.

Q. All the inspectors? A. Yes, sir.

Q. And when all the inspectors were together, you remember no occasion in which the chief suggested that the inspectors call their captains together for a meeting? A. No, sir.

Q. There was no such order? A. Not to my remembrances.

Q. Or requests? A. I won't swear to anything, as I told you before that I don't remember. I don't remember that.

Q. And you say that all during the winter you had no talk with the chief about pending police legislation? A. Not one word.

Q. Or the fact that the Senate was very closely divided? A. Not one word.

Q. And that you had friends that might prevent the passage of any police legislation? A. I haven't any friends—

Mr. Clarke—I mean the department.

The Witness (continuing)—In Albany.

Q. How is that again? I did not mean you personally? A. Yes, sir; I want to get the question again and I will answer it all right.

Q. I say there was no talk touching the composition of the Senate, and its relation to police legislation, in which it was indicated that there were friends of the department in the Senate who could be relied upon to prevent legislation? A. Not to me.

Q. Not to you? A. No, sir.

Q. Then what did you call your meeting of captains for? A. I told you I don't know that. If I did I would tell you in a moment.

Q. Did you ever hear of the Officers' Endowment Association?

A. Yes, sir.

Q. When was that formed? A. That was formed on March 8th, I think.

Q. Eighteen hundred and ninety-nine? A. Eighteen hundred and ninety-nine.

Q. After the meeting of February 20, 1899? A. After the meeting of February.

Q. Did that meeting of captains have anything to do with the Officers' Endowment Association? A. That might be.

Q. No, did it? A. I won't say. I won't swear to that because I don't know it. You can't get me on that.

Q. That is right, captain. How long have you been a police officer in New York? A. Since the 28th day of September, 1883.

Q. How long have you been a higher officer? A. I was six years—nearly seven years—a patrolman, and over two years a roundsman; six years sergeant.

Q. Then you have been about nine years a superior officer? A. Yes, sir, about nine years.

Q. During that time was there any such organization known as the Officers' Endowment Association, in the department? A. They had an Endowment Association, yes, sir.

Q. When? A. When I first went into the department.

Q. When did it expire? A. It expired, it must have been around 1885 or 1886, I think; around that time. I am not sure now; but we did have one.

Q. I will be perfectly fair in my questions. Then from about 1885 or 1886, down to March, 1899, there was no such association in the department? A. No, sir. Not to my knowledge. If there was, I would have joined it.

Q. And if there had been, you would have joined it? A. Yes, sir.

Q. What was the reason, if you know, which induced the formation of this association in March, 1899? A. We got together and thought it would be a good thing to have. Instead of giving flowers and a piece of paper to put up on the walls, \$1,000 would be a nice thing for the widow of a police captain or a police inspector to have. I can't tell who first proposed this association. I don't know. I did not propose it, but was willing to go into it at any time. I won't say that it came from higher up. I don't recall. The first meeting of this association, so far as I know,

I think it was March 8, 1899. It was held in the First precinct stationhouse, Old Slip. That was an open meeting, doors open during the whole time; nobody present but the superior officers. There were twenty, I believe, captains and inspectors and deputy chiefs. The officers making up this association are the chief, deputy chiefs, inspectors and captains. I know there is a separate organization of the sergeants; at least I have heard so. I do not know when that was formed. I know there is a separate organization of roundsmen. I do not know when that was formed. I know there is a separate organization of patrolmen. I do not know when that was formed. I said a while ago that I had a quite well behaved district. There is not much crime in it.

Q. Any poolrooms in it? A. No, sir. There may be, but not to my knowledge. They may exist. I will get at you that way. I got too quick.

Mr. Clarke—Do not get at me.

The Witness—No. I mean to tell you what I do know. Excuse me for what I say.

Q. Now, captain, you say not so far as you know? A. Yes, sir.

Q. What is the business of an inspector of police? A. To do all in his power.

Q. All in his power to what? A. To make arrests wherever there is a poolroom or any other crime.

Q. Pardon me, inspector. Is it not the duty of the inspector to know what is going on in the precinct, in his district? A. Well, —

Q. Is it not? A. Yes, sir; if—

Q. It is the duty of the captain—— A. To report any crime, yes, sir.

Q. Wait. It is the duty of the captain to repress crime in his district? A. Yes, sir.

Q. And the duty of the inspector to know that it is done, is it not? A. Yes, sir.

Q. Then it is your duty to know what exists in the district? A. Yes, sir.

Q. And it is your duty to call the captains to account? A. Yes, sir.

Q. If they do not repress crime; is it not? A. Yes, sir; and I do.

Q. Do you not know that there is a poolroom on the corner of Third avenue and One Hundred and Twenty-fifth street? A. No, sir.

Q. When was it shut up? A. I never knew of one being there.

Q. You never heard of one there? A. Never knew—never was reported to me that there was a poolroom to be at One Hundred and Twenty-third street and Third avenue.

Q. Never reported to you? A. No; never knew it.

Q. You never knew it? A. Never knew it.

Q. If there was a poolroom there, was it your duty to know it? A. Yes, sir.

Q. Was there a poolroom on the corner of Fourth avenue and One Hundred and Twenty-fifth street? A. Not to my knowledge.

Q. When was it closed? A. Never was a poolroom, to my knowledge. There is an incorporated club at that place.

Q. Do you state, as a matter of fact, to your knowledge, that there never was a poolroom on the corner of Fourth avenue and One Hundred and Twenty-fifth street?

The Witness—Will you let me state the reason?

Mr. Clarke—Certainly.

A. There was a party came to my office and reported that there was a poolroom at Fourth avenue and One Hundred and Twenty-fifth street, last Friday. I think it was Friday. I sent a communication immediately to the captain of the precinct, Captain Sheehan. I told him to go with his men and investigate, and also instructed my men to investigate that place at irregular hours of the day and night.

Q. Did they? A. They did, and reported to me that they could find no poolroom in existence at that number.

Q. Was your duty entirely performed when you told the captain? A. No, sir, my duty to my mind now is to visit such places when it is reported.

Q. Have you any doubt there is a poolroom there? A. I didn't—I have, yes, sir. They report a club there.



Q. Is not all that you mean to say, that you have not been able to get any definite proof which would be permissible in a court?  
A. That. Just as soon as I can get evidence to bring before a magistrate in any police court, I shall certainly do so.

Q. Then you know, as a matter of fact, there is a poolroom running there? A. No, sir, I do not.

Q. What are you trying to get evidence for? A. I sent my men. It was reported to me that there was a place there. I sent my men to this place to investigate it.

Q. You thought so much of that evidence—— A. Certainly.

Q. (continuing) That you reported to the captain and sent your own men there? A. I will, at any time that anybody comes to my office and reports anything.

Q. Is there a poolroom on the corner of Seventh avenue and One Hundred and Twenty-fifth street? A. Not to my knowledge, no, sir.

Q. Over the Drive? A. No, sir.

Q. Do you know the "Drive"? A. I know the place, yes, sir.

Q. How often are you in that neighborhood? A. I was there Saturday night.

Q. You have never heard that there was a poolroom on the corner of Seventh avenue and One Hundred and Twenty-fifth street? A. No, sir. There is a club there.

Q. How do you know there is a club there? A. It was reported to me.

Q. Was it not reported to you that there was a poolroom there? A. Never.

Q. Have you never had any suspicions about it? A. Never.

Q. Have you ever had it looked up? A. Yes, sir. My men——

Q. Why did you have it looked up, if you had no suspicions about it? A. All clubs in my district I have suspicions on, and I make my men report and visit those places at irregular hours day and night.

Q. Do you have the Harlem club looked up? A. I don't know. Where is the Harlem club?

Mr. Clarke—That is in your inspection district.

The Witness—Well, I don't know it.

Q. That is not the kind of clubs you have looked up? A. No, I don't know it.

Q. The Harlem club or the Harlem Republican club? A. No, sir.

Q. That is not the kind you mean? A. No, sir.

Q. What kind of clubs do you mean? A. Anything where I have suspicions, or anything like gambling or anything else.

Q. Why should you have suspicions of this place over the "Drive," corner of Seventh avenue and One Hundred and Twenty-fifth streets? A. I don't know, any more than it is over a bar-room, and a respectable club don't generally go over that kind of place.

Q. Captain—I beg pardon; I won't take off your—what is it? Gold leaf? A. Yes, sir, a leaf.

Q. Like a major's? A. Yes, sir.

Q. Well, I will not take off your gold leaf. I read from the rules and regulations of the department. You will really pardon me, inspector? A. Oh, now, that is all right. Go ahead.

Q. I read to you from the rules and regulations: "It is expected that each inspector will visit portions of his district, and the station houses therein, at uncertain hours day and night"—A. That is right.

Q. (continuing) "He will diligently inquire into every complaint made by citizens of laxity or misconduct in the performance of duty by members of the force, and report the same to the chief of police." A. That is right.

Q. (continuing) "Inspectors shall see that within their district the laws of the State and the ordinances of the corporation of which the police department has cognizance, and the rules and regulations of the police department, are enforced, and shall cause nuisances to be suppressed, preserve peace and order at elections, and provide an adequate police force at every fire and public assembly of citizens." A. Yes, sir.

Q. Those are the duties of an inspector, among others? A. Yes, sir.

Q. So that it is your duty personally to diligently inquire into those complaints that are made? A. I do.

Q. You do? A. Yes, sir.

Q. Do you know there is a gambling place on Third avenue, 2312? A. No, sir.

Q. Did you ever hear anything about it? A. Never.

Q. Never heard of it? A. Never heard of it.

Q. Will you look it up?

The Witness—2312?

Mr. Clarke—Yes.

A. I certainly will.

Mr. Clarke—My friend and associate counsel says he will give you a card of admission, if you need it.

The Witness—I will get—I would like to have it, Mr. Moss.

Q. Do you know Percy Nagle? A. No, sir.

Q. Never heard of him? A. I saw him; not to know him personally.

Q. Do you know that he is interested in the poolroom business? A. No, sir.

Q. Never heard of that? A. No, sir, never heard of that.

Q. Never heard of that? A. Never heard of that.

Q. Never heard that he has a place on One Hundred and Twenty-fifth street? A. No, sir.

Q. That is in your precinct? A. Yes, sir.

Mr. Clarke—You had better look it up.

The Witness—I will. On One Hundred and Twenty-fifth street, where?

Q. Captain Sheehan was transferred out of your inspection district, was he not? A. No, sir.

Q. He was transferred to another precinct? A. Yes, sir.

Q. When was that? A. About two or three months ago.

Q. Do you know what for? A. No, sir.

Q. Never heard? A. Never heard.

Q. It had nothing to do with the closing of poolrooms? A. No, sir.

Q. It had nothing to do with looking into Percy Nagle's poolroom in One Hundred and Twenty-fifth street? A. No, sir, I never heard of it. He came from the Thirtieth precinct over to the thirty-second, in the same district.

Q. What did you call your captains together for? A. That I don't remember.

Q. It was not to give any instructions in regard to poolrooms?  
A. I don't know. I won't swear, counselor, until I am positive.

Mr. Clarke—I did not know but that your memory might have been refreshed by these violations of law, and that you might have called them together to talk about poolrooms.

A. If my memory is refreshed, I will tell you.

Q. Thank you. You know I can't know unless you do tell me.  
A. All right.

WILLIAM R. HAUGHEY, being duly sworn, testified as follows:

Examined by Mr. Clarke:

I am in the Thirtieth precinct, West One Hundredth street, the Fifth inspection district. My inspector is Inspector Kane. I have been in command of that precinct since some time in January, 1899. I have been a captain since May, 1892. I was stationed, just before I was made a captain, in the Fourth precinct. Before that, in the old Twenty-seventh precinct, in Eighty-eighth street.

Q. You and I have met before? A. Not to my knowledge.

Q. Who was the captain of that precinct at that time? A. During my time there, it was Inspector Connolly, Captain Saunders and Richard O'Connor.

Q. You were sergeant at the desk one night when it was charged that Captain O'Connor made an assault upon a citizen? A. I might have been.

Q. And I tried him before the police board; do you remember that? A. I remember he was tried. I didn't know that you were the lawyer.

Q. You remember that you testified? A. I did.

Q. You testified that no such thing occurred in the police station? A. I did, I believe.

Q. And that board consisted of MacLean, who is now a justice of the Supreme Court, Voorhis, McClave and Martin, did it not?  
A. Yes, sir.



Q. And the board broke even, two and two, on that, did they not? A. I don't know. I paid no attention to it.

Q. You know that O'Connor was never punished on that charge?

A. I don't know even that.

Q. And never acquitted? A. I don't know even that.

Q. Do you not remember that the board broke even, Voorhis and McLean voting guilty, and Martin and McClave voting innocent, or not guilty? A. No, sir.

Q. You do not remember it? A. No, sir.

Q. You do remember having testified? A. I do.

Q. And that no such occurrence took place? A. Yes, sir.

Mr. Clarke—This is only to recall the captain's memory to myself.

The Witness—It was, I think, about 1890 or 1891. I won't be positive as to date.

Mr. Clarke—The sergeant was not on trial at the time.

By Mr. Clarke:

Q. Did you attend the meeting on February 20, 1899, called by Inspector Kane? A. I attended some meeting; I don't know as to date. I didn't impress myself with it. It was held in the Thirtieth precinct stationhouse, I think—West One Hundred and Twenty-fifth street. It was the Thirty-first precinct. We were ordered there; I don't know exactly how, now. It didn't impress me. The inspector ordered me—a telephone order, I think. He gave out some instructions; no reason given in the order.

Q. Who were present? All the captains in that inspection district? A. No, I think some had got there before I did and had gone away. I think Captain Steinkamp was there and myself. I don't remember anybody else at the time. That was in the evening; about 8 o'clock, I guess it was.

Q. I have it that the call on the telephone blotter says that the meeting was called for half-past eight on February 20th? A. I said about 8 o'clock. I won't be positive as to a few minutes.

Q. How often had the inspector been in the habit of calling the captains together? A. Oh, it is a thing that has been repeatedly done.

Q. Yes; but how often has he done it? A. Oh, I could not tell you that. I could not approximate how often. It might have been once; it might have been ten times. I know several times he has done it.

Q. How long has he been inspector of that district since you have been there? A. Well, sometime in January or February, I think. December, I guess, he was made inspector. I think it was in December. I am not sure.

Q. From December to the present time is not more than four or five months. How many times has he called you together during that time? A. It might be a half-dozen times. It might be more and it might be a little less.

Q. I ask you if that is a matter of memory? A. I was trying to memorize it for you. That is about as near as I can get to it.

Q. If the inspector says he only called you together that once, would his memory or yours be the better? A. That would be an open question. I could not tell whether he was right or wrong.

Q. There is a difference between you and Inspector Kane? A. He is entitled to his opinion. I can't swear what Kane swears, but I swear to the best of my knowledge. It might be five or six times, more or less.

Q. What did he call you together for on those occasions? A. He gave us some instructions. I don't remember exactly what it was. Something about excise and something about Sunday law, as far as I understood or remember.

Q. What did he instruct you on the 20th of February? A. That is as near as I can remember. It was Sunday law and excise, to the best of my knowledge.

Q. What was the particular occasion of instructing you about Sunday law on February 20th? A. You will have to ask Inspector Kane. I don't know.

Mr. Clarke—The inspector is not on the stand. I am asking you.

The Witness—You ask me his particular reason. That I don't know.

Q. What did he say to you? A. He said he had called us together. The others had departed. He said he wanted us to enforce the law and see that it was enforced.

Q. What law? A. Sunday law. Some fault had been found.

Q. Is that a matter of direct positive recollection? A. To the best of my knowledge.

Q. As to what occurred on February 20th? A. Yes, sir.

By the Chairman:

Q. What day of the week was that? A. I don't remember.

Q. Do you make any record on your blotter of your visits to the inspector—"Called by the inspector?" Do you keep any record of that? A. Yes, sir; we generally mark "Left station" for such a place.

Q. Then your blotters would show the number of meetings that you have attended, at the call of the inspector, would they not? A. Well, sometimes we put in "Left for supper." I may have put it in "Left for supper" that night, as I live in the vicinity.

Q. If you were going to see the inspector you might have entered "Left for supper?" A. Yes, sir.

Q. What object would you have, when going to the inspector or on police duty, to make an entry in your blotter "Left for supper?" Why would you make such an entry instead of saying "Going to the inspector's," "Attending to a call of the inspector?" A. If it fell on the supper hour I would utilize a part of the supper hour for the two purposes.

Q. Then your blotter would not necessarily indicate that you had visited the inspector? A. No. I left this morning. I said: "Left for the committee." I didn't say what committee. I said: "Left for the committee."

Q. That is all right; but what object would you have, when you went to see the inspector, in making it, "Left for supper?" A. Because it is on my direct line. I live near the station house.

Q. Do you not consider it a part of your police duty to keep an accurate record, in such an important function as attending the call of the inspector? A. The telephone blotter says that I am compelled to tell that.

Q. Do you not consider that sufficiently important to make an entry on the blotter, rather than to make an entry "Left for supper?" A. Well, no, so long as I live in the neighborhood, and could utilize the one time for the two purposes.

Q. Is that the entry that is made on your blotter on that day? A. I would not positively assert.

Q. What is your impression now? A. I may have entered it "Left for the Thirtieth precinct"—Thirty-first precinct. I don't know what entry I made.

Q. Have there been other occasions where you called on the inspector and made the entry "Left for supper?" A. I have called on him and made it "Left for central office," when I went down town, and I may have entered the entry "Left for supper and Thirty-first precinct."

Q. You do not know what the entry is? A. I don't know what the entry is, unless I looked at it.

By Mr. Clarke:

Q. It appears by the calendar that February 20th was Monday. Do you know of any special reason why you should have been called together on February 20th, which was Monday, to be given orders about the excise law? A. I don't know of any special reason.

Q. Have you any recollection that it was violations of the excise law that you were called together about? A. To the best of my knowledge, Mr. Clarke.

Q. Had there been any complaints, any general complaints, as to laxity in your precinct, in regard to violations of the excise law? A. That I would not know.

Q. You would not know? A. No.

Q. Were you informed by the inspector that there were? A. So far as I remember, it was a general instruction.

Q. What was the nature of the instruction? A. That we were to be more rigid in enforcing the laws.

Q. Have you been? A. Yes, sir.

Q. How many arrests did you make the next Sunday? A. That I don't remember, unless I look in the books.

Q. Did you become specially rigid and vigorous after February 20th in regard to the excise law in your precinct? A. I did the best I could with it.



Q. I know; but did you do anything especial, immediately after that; that is all I am asking? A. I sent men out in citizen's clothes, and gave positive instructions.

Q. Anything more than had been done before? Was there any special round-up of violators of the excise law immediately after that meeting?

The Witness—Round-up?

Mr. Clarke—You know what that means. Do not tell us you do not know the stock police phrase in New York.

A. No, I never heard that as one.

Q. Where were you transferred from when you went down to your present precinct? A. From the Thirty-second precinct.

Q. Where is that? A. One Hundred and Twenty-sixth street, near Lexington avenue.

By the Chairman:

Q. Why do you laugh? A. Because it is Mr. Moss's precinct. He lives in it.

By Mr. Clarke:

Q. Do you have to look after Mr. Moss's establishment with great care? A. He is all right.

Mr. Moss—I am very proud of the compliment.

The Witness—Mr. Sulzer's establishment is in that old district. My transfer did not grow out of anything in relation to Mr. Herman Sulzer's establishment, not to my knowledge. I used to visit his concert garden there on duty. I did sometimes see violation of the laws there. I have made arrests there. I could not tell you how many. Any time I found a chance, I made it.

Q. You could have found a chance most any time, could you not? A. Well, no; not every night.

Q. Certain kinds of dances take place there, do they not? A. They did not while I was there.

Q. Masked balls and things of that kind? A. Yes, sir.

Q. How about excise violations? A. There have been arrests made there.

Q. Those things are rather frequent there, are they not? A. Now and then. He lives as close to the law, I guess, as he can. At least, he did.

Q. How about the law officer; does he live close to him?

The Witness—The law officer?

Mr. Clarke—Yes.

A. I don't understand that exactly. I have met Mr. Sulzer. I never sent for him to come and see me, never. I have been there repeatedly in his place and saw him. I never asked him why he did not send over to the house. I remember about two years ago, when he was holding a fair, I did go to the park at that time. I did not advise him that he did not do the right thing. I admonished him to comply with the law.

Q. Did you have any talk about wine with him?

The Witness—Me?

Mr. Clarke—Yes.

A. Never drank a glass of wine in my life.

Mr. Clarke—I did not ask you if you drank it. I asked you if you had a talk about it.

The Witness—Oh, no.

Q. Any talk about money? A. No, sir.

Q. Not at all? A. None.

Q. At that or any other time? A. Any other time.

Q. Does your precinct cover One Hundred and Twenty-fifth street? A. Not now; it did at that time.

Q. When did you move out? A. In January I was moved out.

Q. Do you know why? A. I don't know a thing about it.

Q. Did it have anything to do with the poolroom owned by Mr. Percy Nagle? A. No, sir.

Q. Do you know Mr. Percy Nagle? A. Yes, sir.

Q. Do you know him connected with poolrooms? A. No, sir.

Q. You do not? A. There was no poolroom there when I was there.

Q. Where? A. In One Hundred and Twenty-fifth street.

Q. Where? A. In One Hundred and Twenty-fifth street.

Q. But where? A. Any part of it in the precinct.

Q. Did you not prevent a poolroom from running there? A. I don't know of anybody that wanted one there while I was there.

Q. Did you not prevent one being run there? A. I didn't prevent anything, for there was no call to prevent.

Q. Did you not prevent any poolroom in your precinct while you were there? A. I have answered that. I would prevent it in any precinct.

Q. I asked you because we would be very glad to find that a captain could and did prevent such things. I ask you whether you did not prevent the running of poolrooms on One Hundred and Twenty-fifth street, when you were in command of the district? A. I had no occasion to prevent them, as there was none there.

Q. Did you ever hear of any being on One Hundred and Twenty-fifth street? A. I haven't heard anything about it since I left the place.

Q. No; but when you were there? Was it not a fact that you were asked to stand for a poolroom and refused to do it, and then were transferred from that district? A. It is not a fact.

Q. You would have declined to have stood for one if you had been asked, would you not? A. Most assuredly.

Q. But you were transferred very suddenly, and you do not know why? A. I don't know anything about it. I have been transferred innumerable times.

Q. How long have you been in the police force? A. I will be twenty-seven years, if I live until the 1st day of November, this present year. I belong to the Officers' Endowment Association, that was formed on the 8th or 9th of March. There was not any similar organization before in the department; not that I know of; not that I ever belonged to. I became a roundsman—one minute now—the 1st of February, 1881.

Q. So that, certainly, from 1881 to the present time, you would have known if there had been such an association, would you not? A. I might. I became a captain May, 1892. Certainly from that time I would have known. Now, there has been no such organization, to my knowledge, up to March 8, 1899.

Q. Did you take any interest in police legislation at Albany this year? A. Why, no.

Q. Did you know that there was any legislation pending there? A. Read it in the papers.

Q. Was the reason you did not take any interest in it the fact that you knew it could not pass? A. There is people in New York would give \$500,000 for that knowledge.

Q. What? A. There is people in New York would give \$500,000 for knowledge that bills could not pass. I had no second sight. I knew nothing about it.

By the Chairman:

Q. What particular bills do you refer to? A. None in particular.

Q. Why do you make the statement? A. It would be forewarned knowledge, and they could make bets on it and make money on it, the same as in the stock market.

By Mr. Clarke:

Q. You regard legislation a good deal like making money in the stock market? A. Certainly, if a man was forewarned.

Q. Do you mean to say you took no interest in police legislation? A. No, sir.

Q. You knew that bills were pending up there, which completely reorganized the force, did you not? A. Yes, sir.

Q. It changed a bi-partisan board of four into a single-headed department? A. Yes, sir.

Q. And there were other very radical measures up there? A. Yes, sir.

Q. One, the State Constabulary Bill? A. Yes, sir.

Q. Which would take the control of the police from the city authorities and confer it upon a State officer. You knew that? A. Yes, sir.

Q. And you did not take any interest in it at all? A. No.

Q. Was not anything said at this meeting of captains, which Inspector Kane called, about police legislation? A. Not to me.

Q. Or about the Officers' Benevolent Association? A. Not at that time.

Q. When did you first hear about the Officers' Benevolent Association? A. At headquarters one day.

Q. At headquarters? A. Yes, sir.

Q. From whom? A. Some of the other captains were making applications to become members, and I did the same.

Q. You were not present when it was organized, and at the election of officers? A. No; I was not.



Q. Did the chief ever say anything to you about it? A. I have never spoken to the chief since he has been chief.

Q. What is the initiation fee, if I may ask, of the Officers' Endowment Association? A. Five dollars.

Q. Are there regular dues? A. There is no regular dues that I know of, unless an assessment for death.

Q. An assessment for death? A. That is all.

Q. Has the question of assessment come up since the association was formed? A. Yes, sir; Captain Worth's assessment was made since we have been an association.

Q. Is that all? A. I don't remember of any others.

Q. You remember of no other assessment being talked about? A. No other assessment.

Q. And you were not present at the meeting of the organization? A. No, sir.

Q. There is a retirement and pension fund of the police, amounting to a very large sum of money? A. Yes, sir.

Q. Which is controlled by law? A. Yes, sir; and the police.

Q. The treasurer of the police board is treasurer of that fund? A. Yes, sir.

Q. And it amounts to a good many hundreds of thousands of dollars, does it not? A. I don't know anything about that.

Q. Well, you know there is such a fund? A. I know there is such an existing fund.

Q. Do you know of any particular reason, after having been twenty-six years upon the force, why, at the end of February and the beginning of March, 1899, at a time coincident with certain pending police legislation in Albany, the Officers' Endowment Association should have been formed? A. I don't know of any good reason why that particular date should be selected, but I do know that it is a thing that has been agitated ever since I have been a captain, and never was brought to a focus until that time. Why, I do not know.

Q. But at that particular time a focus was arrived at, as you say? A. Yes, sir.

By the Chairman:

Q. After sixteen years of agitation, or seventeen years—since 1892, you say? A. Eighteen hundred and ninety-two? That is six years; it will be seven in May.

WILLIAM F. KIRCHNER, being duly sworn, testified as follows:

Examined by Mr. Clarke:

My precinct is Thirty-third precinct; that is in Inspector Kane's inspection district. I have been in command in the precinct since April a year ago. I have been on the force thirty-four years, almost. I have been a captain since February 17, 1896. I became a sergeant on the 10th of April, 1880. We keep a telephone blotter in each stationhouse. I do not recall an order over the telephone for a meeting of captains on February 20th. I do not recall that the inspector called a meeting at the Thirty-first precinct stationhouse, on West One Hundred and Twenty-fifth street, for 8.30 p. m., on February 20th, of captains. I did not attend such a meeting. That night I was absent from the city. I was away thirty days. I was sick from the—I think it was the 17th of February until the 17th of March. I made a contribution to the Officers' Endowment Association after the death of Captain Worth. I think it was \$13.70. It was a day or two after his death. I don't remember the date. Captain Worth was a Brooklyn captain. That is the only assessment that has been laid in the association. I joined the association some time in the latter part of March after I got back from leave. I made application to join the association. I made application in writing to the secretary of the association. Nobody directed me to, I knew about it from the general conversation of others, I could not recollect from whom. The inspector never spoke to me directly about it, nor the chief. I learned there was such an association at the meeting of the different captains at headquarters. I was away from the 17th of February until the 17th of March, but I had to report to headquarters for my pay after I came back. It was about that time that I learned about it. I have forgotten the date. I don't remember what was said to me about the association, simply that an organization had been formed for the endowment of members of the force to pay a certain amount to the widow when the officer died, and a certain amount for an officer who resigned or retired or who was dismissed. I knew that there was a pension and retirement fund in the department, and I had been in the department almost thirty-four years.

Q. Do you know why it was that at the beginning of March, 1899, for the first time, such an association was formed in the department, although you had been in it thirty-four years?

The Witness—Do you mean that that was the first time that there was an organization of that kind?

Mr. Clarke—That such an organization was formed. A. Oh, no.

Q. When was any other organization formed? A. Several years ago we had organizations.

Q. How many years? A. When I was a sergeant, we had an organization.

Q. You had a sergeants' organization? A. Yes, sir.

Mr. Clarke—I am talking about the Officers' Endowment Association.

The Witness—I don't know anything about that. I never had anything to do with it.

Q. There never was any such organization, so far as you know prior to March, 1899? A. No, sir.

Q. Do you know of any reason why it should be formed at that particular time? A. I don't know.

Q. Did you take any interest in police legislation in Albany this year? A. None whatever.

Q. Did you know there was any such legislation pending? A. Simply what the press informed—reading papers.

Q. Did you not read about these bills with some interest? A. Naturally, being a policeman, yes, sir.

Q. You knew that those bills contemplated the almost entire reorganization of the department, did you not? A. I don't know anything of the kind.

Q. You know it was changed from a bi-partisan board to a single head? A. That was all.

Q. You knew that there was another bill which provided for a State constabulary, and took away control from the local authorities? A. Yes, sir.

Q. And there were other bills, such as dividing the bureau of elections? There were a number of other bills there, reorganization bills? A. Yes, sir.

Q. You say you did not take any interest in them? A. None whatever.

Q. And a change in the head of the force might have a serious effect upon the officers in it, might it not? A. I am interested in

myself, and I have served sufficiently long enough that I can present my application for retirement.

Q. Oh, I congratulate you. You are on easy street? A. I am.

Q. When things get unpleasant for you, you can retire? A. I can.

Q. So that it does not make much difference to you what happens to the force; you can look out for yourself? A. Yes, sir, but I am interested in the welfare of the force, the same as every citizen is. Under the law I may retire on a substantial pension at any time.

Q. Why was it necessary for you to join the Officers' Endowment Association, then? A. Because, if I get retired, I get \$1,000, which is quite a help in hand.

Q. How much was to be paid by each captain? A. That is no settled fact.

Q. Do you mean to say that there is no rule? A. Simply an assessment sent out to each captain, at the time of a death or retirement or resignation.

Q. How is that ascertained? A. Well, by the number of members.

Q. You mean there is a pro-rata assessment? A. Yes, sir.

Q. Is there no limit as to how much you will be called upon to pay in any one year? A. There is not more than two assessments in one month. This last month was \$13.70. It would be about \$27; that is the limit each month. So that I could be called upon to pay two each month for a year. I did not have any conversation when I was at headquarters, meeting these captains, about this police legislation; none whatever; or with the chief. I was at no meeting of any captains or with the inspectors.

MICHAEL SHEEHAN being duly sworn, testified as follows:

Examined by Mr. Clarke:

My precinct is the Thirty-second; that is in the Fifth inspection district, of which Inspector Kane is chief. I have been on the force going on thirty-two years. I have been a captain a little over three years. I was made a sergeant July 21, 1876. I was made a captain February 17, 1896; that was under the Roose-



velt board. I was transferred to the Thirty-second precinct on the 4th of January last, from the One Hundredth street station; that is the Twenty-sixth. That precinct extends from Eighty-sixth to One Hundred and Tenth, on the west side; from Columbus avenue over to North River; or, I should say, from Central Park west to the North River. I have been in command of the precinct that covers east One Hundred and Twenty-fifth street; I was transferred there January 4th last; that is the one I am in command of now. That goes to Lenox avenue. I do not recall a meeting of captains called by the inspector on February 20, 1899.

Q. Do you recall any meeting of captains called by the inspector since the first of January; since he has been in command of that inspection district? A. The inspector called the commanding officers from time to time.

Q. Do you recall any times that he has called them together since January first? A. No, sir; I could not remember any specific date.

Q. Do you remember that he has called them together since January first? A. As I say, frequently——

Q. Do you remember it? A. No, sir; I do not.

Q. You cannot say, then, from your memory, whether he has or not? A. There has been several—captains have been called together on several occasions by the inspector—but I cannot——

Q. What for? A. On police business.

Q. Yes; but what special business was there for which he called you together? A. I think on one occasion——

Q. I ask for your memory? A. Well, I don't remember—in regard to enforcing the laws. Probably sometimes there might be a little laxity, and to spur the captains up.

Q. Has there been any such occasion? A. They have been spurred up on several occasions.

Q. Have you been lax in the enforcement of the law since January first? A. No, sir; I have not.

Q. Then you were not called up to be spurred up? A. I was called, in a general way, with the rest of them.

Q. Was that the reason of the meeting on February 20th at half-past 8 p. m., at the Thirty-first precinct station-house, on West One Hundred and Twenty-fifth street, and the order for

which came over the telephone, and is entered on your telephone blotter in your district? A. That, as near as I can recollect, was in regard to the laws.

Q. Do you recollect that meeting, now that I have read the particulars of it? A. I don't recollect the date; no, sir.

Q. The inspector says there was a meeting that he called that night. A. As I stated before, the inspector called the commanding officers on several occasions, but I don't remember all.

Q. The inspector said there was no other meeting since he had been in command? A. I don't know that you would call it a meeting. There has been several calls on captains in the district.

Q. How many times has he called you together in that precinct, since January first, in which he has given instructions or orders or had consultations? A. There might have been several times. Possibly two or three different occasions. Maybe four.

Q. Do you remember any special subject of discussion on any one of those occasions, specifically? A. I think in regard to the excise law; sometimes in regard to peddlers.

Q. Was there ever anything said at any of those meetings about the Officers' Benevolent Association? A. Not to my recollection; no, sir.

Q. Was not the meeting of February 20th for the purpose of talking about the formation of the Officers' Benevolent Association? A. Well, I don't remember exactly.

Q. Do you know when that association was formed? A. It was formed here very recently.

Q. When? A. The date I can't remember.

Q. Are you a member of it? A. I am; yes, sir.

Q. Do you take any interest in police legislation at Albany? A. No, sir.

Q. Did you know that any such legislation was pending this year? A. Well, by common rumor; by the press.

Q. Was it only common rumor? A. Well, by the press; that is all I knew about it.

Q. Was there not any discussion in the force? A. There might have been a few words.

Q. Did you never have any talk with your brother officers? A. Yes, sir.

Q. As to whether there was to be this complete reorganization of the New York force? A. Possibly, when I would meet a brother officer, we might talk about it, and say, "What do you think? Will the bill go through?" Or, "It won't go through." Some casual conversation.

Q. You were pretty sure that the bill would not go through? A. Never knew anything about it.

Q. You never discussed whether the bill would go through? A. I have got a pretty good job, and it don't make any difference to me.

Q. What do you mean by that? A. I am perfectly satisfied with the job I have got? It is immaterial to me whether there is any legislation or not. As long as I do my duty, I think I will get along.

Q. Are you in Captain Kirchner's position, that you are able to ask for retirement at any time? A. No, sir, I am not.

Q. You have not been in the force long enough for that? A. After twenty years——

Q. After twenty years? A. After twenty-five years.

Q. You are in that position, then? A. Yes, sir.

Q. You can ask to be retired voluntarily on a pension? A. Yes, sir.

Q. Half pay? A. Thirteen hundred and seventy-five dollars.

Q. Twenty-seven hundred and fifty dollars is full captain's pay? A. Yes, sir.

Q. Is that the law you referred to when you said you were all right, you didn't care what happened? A. No, I was not thinking about retirement. I haven't any idea of going out of the business.

Q. You are perfectly satisfied? A. I am perfectly satisfied, yes, sir.

Q. Do you really want us to understand that the question of this reorganization was not a subject of interest and of talk in the department? A. Well, it didn't interest me particularly.

Q. I am not talking about whether it interested you particularly; I am asking you to tell us whether or not legislation which changed the control of the force from a bi-partisan four-headed commission to a single commissioner, was not of such overwhelming interest to the force that it was a matter of discussion and

interest among its members? A. The only way I can answer that is this: that when I would meet probably a brother captain, I might say, "Well, what do you think about it?" Nothing further than that. I was not particularly interested.

Q. Was the fact that you were so sure it would not pass the reason you took so little interest in it? A. No, sir, I knew nothing about whether it would pass or not.

Q. How about the question of turning over the control to the State authorities under the State Constabulary Bill. Was that not a subject of interest and discussion in the department? A. Not to me, no. I don't believe that I ever spoke about it.

Q. Did not your inspector, when he called you together, on February 20, 1899, as he has testified he did call you together, discuss police legislation at that time with you? A. No, sir, he did not.

Q. Not a word? A. No, sir.

Q. But you do not know what he did talk about? A. As I say---

Q. You do not know what he did talk about? A. In regard to some enforcement of some law, where there would be some laxity.

Q. You say some enforcement of some law; but do you mean to tell us what law and what enforcement? A. That I can't recollect.

Q. Do you know what day of the week February 20th was? A. No, sir, I do not.

Q. Do you know who were present at that meeting? A. I believe the captains of the district. Of the inspection district.

Q. Who were they? A. If I remember right, I think Captain Kirchner was there, and Captain Haughey, and I think Captain Steinkamp.

Q. Are you stating from memory or simply because those are the captains of the district? A. Well, from memory.

Q. Captain Kirchner testified he went off on leave on the 17th of February and did not come back until the 17th of March. How about that? A. It is possible. I don't remember.

Q. Then you do not remember that he was there? A. I don't recollect it, no, sir. I could not swear.

Q. You said you thought he was there? A. I will qualify that by saying I thought he was. I don't remember. As I said, we



have been called from time to time, and I don't remember all those things.

Q. Inspector Kane says that is the only time he called you together since he has been inspector in that district? A. Well, there are two or three different occasions where he has called the command together.

Q. Can you tell us any specific orders that were given about the enforcement of any specific law, upon any one of those occasions? A. I think, on one occasion, in regard to the enforcement of the excise law; and on another occasion, in regard——

Q. What did he tell you about the enforcement of the excise law? A. Well, he thought there was a little laxity, and to see that it was enforced, and he would hold the commanding officer responsible; and another time——

Q. Were you lax in the enforcement of the law? A. Well, I didn't think so.

Q. Did you take on any extraordinary vigor after that order? A. By all means.

Q. You did? A. Yes, sir.

Q. How many increased arrests that next week did you have? A. I think we had one or two. I don't know.

Q. One or two? A. Yes, sir.

Q. How many saloons have you got in your district? A. I think there is in the neighborhood of 275—or something—possibly 300. I don't remember the exact number.

Q. Do you think that a really extraordinary vigorous enforcement of the excise law would simply cause the one additional arrest, from 275 saloons? A. Well——

Q. Now, do you? A. I——

Q. Do you, captain? A. There is so many——

Q. Oh, just answer the question; do you think so? A. I do, yes, sir.

Q. All right. Now we have a standard of what vigor there is. You were made a captain in 1896? A. Yes, sir.

Q. What was your first precinct? A. I was sent to the Eleventh precinct as an acting captain.

Q. Where is that? A. That is in Eldredge street, now, I believe, known as the Twelfth.

Q. Is that the district that Captain Chapman has recently been in? A. Yes, sir.

Q. Is that the red lamp district? A. I believe it is so called by the press.

Q. When you were made captain, and put in command of a district, you attempted to enforce all the laws with vigor, did you not? A. Yes, sir.

Q. You had no difficulty, so far as outside influence was concerned, in enforcing the law, did you? A. Well, I always try to enforce the law at all times.

Q. You then went to the Tenderloin, did you not? A. No, sir; from there I went to where I am at present.

Q. Did you not go to the Tenderloin? A. Subsequently.

Q. Were you not in command of the Tenderloin? A. Subsequently, yes, sir.

Q. You made a good record there in the Tenderloin, did you not? A. Well, I always try to do the best I can.

Q. You did, did you not? A. Some people so consider.

Q. There were no complaints about your enforcement of law and order in the Tenderloin when you were there, were there? A. No, sir, I worked very hard.

Q. You were not interfered with, were you? A. No, sir, I have not been interfered with—

Q. You were not interfered with under that old board in anything you were doing as a captain of the precinct, were you? A. No, sir.

Q. Why is it that you do not do the same in your precinct? What prevents you up there from showing up the poolrooms? A. I am working just as hard as ever, now.

Q. Why don't you shut them up? A. I will say—

Q. Why don't you shut them up?

Mr. O'Sullivan—Let him answer.

Mr. Clarke—No interruption, now.

Q. Why don't you shut them up? A. I didn't know as there was any poolrooms there.

Q. Do you not know there are poolrooms in your district? A. Not to my knowledge.

Q. Do you mean you have not played in them? That is what you mean, of your knowledge; but do you not know? A. No, sir.

Q. (continuing) As a common sense man knows, in charge of a precinct, that there are poolrooms in your district? A. No, sir.

Q. You had no difficulty in closing those establishments up in the Tenderloin? A. I did. They had chartered clubs, and I could not close them; and I don't believe there is a captain that can close them up. They run as chartered clubs.

Q. There are poolrooms in your district? A. No, I say; not to my knowledge.

Q. Why did you just say they are chartered clubs? A. I said the so-called poolrooms are run as chartered clubs.

Q. Are there such things in your district? A. No, sir.

Q. Then they are ordinary poolrooms? A. I say I don't know about any poolrooms to my knowledge.

Q. Have you not had any complaints about poolrooms in your district? A. There was——

Q. Did Inspector Kane order you to shut up any in your district? A. He called my attention——

Q. When? A. Here about two or three weeks ago.

Q. Did you tell him, when he called your attention to it, that there were none there? A. Yes, sir; I did.

Q. Then, what did you send your men around and try to get evidence for? A. I don't know of any poolrooms being there.

Q. You did not send your men to try to get evidence? A. Yes, sir; I did.

Q. What did you that for? A. To see if there was anything in it. My attention was called to it through a newspaper article.

Q. Oh, then, it has been a matter of such common notoriety that it has been in the newspaper prints, has it? A. Yes, sir.

Q. Do you mean to say, really, now, that when a matter of that nature is of such publicity that it gets into the newspaper prints, you still deny that there are such in your precinct? A. Yes, sir; I went there and tried to get evidence myself. Also instructed my men.

Q. Went where? A. To those two places it was reputed——

Q. What places? A. One place on the corner of One Hundred and Twenty-fifth street and Third avenue, and another place on the corner of One Hundred and Twenty-fifth street and Fourth

avenue. I went there myself, and they wouldn't let me in. They said: "This is a chartered club, and you can't get in." I also sent my detectives to go and obtain evidence. When I was in the other district, it was the same thing. I have known where I had to force my way in, the man at the door was arrested, and the judge has discharged him. He said: "You have no right to arrest that man, and the man would be justified in shooting you, because if it was a chartered club, you have no right in there."

By the Chairman:

Q. What magistrate in this city ever made such a declaration as that? A. I don't remember the name.

Q. If any magistrate made that statement, I would like to know his name now? A. That is what the officer who had the case, reported to me.

Q. You know nothing about it yourself? A. Nothing personally, no, sir.

Q. What officer was it? A. I can't recall the officer that made the arrest. It was on the corner of Thirty-fourth street—not on the corner but in the middle of the block, Thirty-fourth street and Broadway.

Q. How long ago was this? A. That was in my time in the Tenderloin.

Q. How long was that? A. I think it was in 1897. I was there very nearly a year. A year all but a month.

The Chairman—I thought you were talking about a particular case.

The Witness—Oh, no.

The Chairman—Arresting a man at the door, and taking him to the magistrate, the magistrate saying he ought to be shot for arresting him.

The Witness—That is the way the officer reported it to me. It is on record there.

Q. You have no knowledge personally? A. I have no personal knowledge. It is on record, the man that made the arrest. But I know the man was discharged.



By Mr. Moss:

Q. You do not mean to say the language of the magistrate is on record, do you? A. No, sir. That is what the officer reported to me. He said the magistrate—I don't remember the magistrate—he said he discharged this man, and he said that the officer had no right to go in there; that he had no right to force his way in. It was a chartered club, and if he didn't choose to let him in, that he had no right to go in there. And that is the trouble we have with those places.

By the Chairman:

Q. This statement does not apply to this alleged club on Third avenue? A. Oh, no; it was over in the Tenderloin.

By Mr. Hoffman:

Q. Was not the same statement made by a magistrate at the time of the raid on The. Allen's place, when that place was raided? A. I don't recollect that. I don't remember.

Q. Do you not remember that it was so stated in the newspapers? A. No, I don't remember. Commence to think, it was, now. I remember reading it, yes, sir.

By Mr. Clarke:

Q. Where was that? A. That was The. Allen's place there. The judge claimed that they had no right.

Q. Where did you read it? A. In the daily press.

Q. What judge was it? A. I don't remember the judge. I merely read it.

Q. You have referred to a poolroom, or you said a chartered club, on the corner of Third avenue and One Hundred and Twenty-fifth street? A. Yes, sir.

Q. What is the name of the club? A. I think they call it the Wisonsik, or something.

Q. Did they have meetings there? A. I presume they had. I understand it is an old chartered club. It has been there for some time.

Q. Complaints have been made to you that it is nothing but a poolroom, have there not? A. No, sir. The first complaint I

ever got was what I—the inspector came and asked me to make a report in regard to those two places.

Q. What report did you make? A. I reported that those places—that they were chartered clubs, and that I was making a personal investigation, and also instructed my detectives to try and obtain evidence against them.

Q. Does your jurisdiction go as far as Seventh avenue? A. No, sir, I do not.

Q. Why do you not shut up that gambling place at 2312 Third avenue? A. I didn't know as there was any there.

Q. You never heard of it? A. No, sir.

Q. You never heard anything about it? A. I believe there is a club there.

Q. Then you know there is a club there? A. So I understood.

Q. But you never heard anything about it being a gambling place? A. No, sir, I did not.

Q. Are there any other places in that district which are violating the law? A. Not to my knowledge.

Q. Not to your knowledge? A. No, sir.

Q. Have you been prevented, or has it been suggested to you that you should not be as vigorous in the execution of laws as you were when you were in the Tenderloin and in the Red Lamp district? A. No, sir, it has not.

Q. Did I ask you whether, within your knowledge, such an association as the Officers' Endowment Society had existed prior to this year? Did I ask you that question? A. No, sir, you did not.

Q. You have been on the force thirty some years? A. Going on thirty-two years.

Q. And you have been an upper officer for how long? A. I was sergeant for almost twenty years.

Q. Is it not a fact that no such association as the Officers' Endowment Association had existed in the department prior to the end of February or the first of March this year? A. Not to my knowledge.

Q. Do you know of any special reason why, after all these years of the uniformed force, and with the pending pension and retirement fund and law, such an association should have been

formed in March, 1899, for the first time? A. The first intimation that——

Q. No; but do you know of any reason? A. Yes, sir.

Q. (continuing) Why it should have been formed at that time for the first time in all the years of the uniformed department?

A. The only reason I can account for it is simply this: that on the occasion of Captain Meekham's funeral there was a great display of flowers there, and there was quite a number of captains, and we thought it was rather foolish to spend so much money for flowers and resolutions; we then thought, talking amongst ourselves, it would be a good idea to get up some kind of a fund, where we could give something to a widow or orphans in case of death or dismissal—or something of that kind. That is how the thing was first originated, I believe.

Q. When was Captain Meekham's funeral? A. I don't remember the date.

Q. Approximately? A. I have a very poor memory on dates; I suppose it was probably six or eight months ago. I don't remember the date exactly. It was about that, probably. Six or eight months ago.

Q. Did you know that there was an organization about the same time, formed among the sergeants? A. No, sir; I did not.

Q. You never heard of that? A. No, sir.

Q. Do you not know that there is a sergeants' organization in the department? A. I believe there is, but I have no positive knowledge. I don't know.

Q. Do you mean to say seriously that a captain of police, with all the sources of information that he has, does not know such a simple fact as whether or not there is a benevolent organization of sergeants in the command of which he is a captain? A. The only way I can answer that is, I believe there is. I don't know personally.

Q. What particular reason did you have for joining the Officers' Endowment Association? A. From the fact that I thought it was a very good thing.

Q. You were not personally interested? A. Nothing more than if I should happen to get retired or dismissed, or to die, there would be a thousand dollars to do somebody good.

Q. For whom? A. For my family.

Q. You are not a married man, are you? A. I am a widower, but I have got a big family, a helpless family, and I am a poor man. Thirty-two years in the business, and I am a poor man.

Q. On that subject I make no insinuation whatever, of any kind or nature. We are talking about something entirely different. We are not making any personal drive at you at all, or any such suggestion. I am simply talking about this fund, and legislation. We do know that you had a good record in the Tenderloin, and would like to know if there is any reason why you could not do up in your present district what you did down there. Are you in any way hampered? A. No, sir; I am not.

Q. Can you do just what you please? A. There is nobody——

Q. Can you do just what you please? A. Yes, sir; use my own judgment.

Q. Can you? A. Yes, sir.

Q. Can you close up any establishment in that place, upon your judgment? A. If I can get the evidence.

Q. If you can get the evidence? A. If I can get the evidence.

Q. You are at perfect liberty to enforce all the laws in your precinct? A. That is what I am placed there for.

Q. Why do you not do it? A. Well, I am trying to do the best I can.

Q. Let me ask you one other question. Did you, directly or indirectly, contribute any money, except the \$13.70 which you have testified about, to the Officers' Benevolent Association? A. No, sir.

Q. Or to any other association in the department, or to any officer in the department, withing the last two months? A. No, sir; I did not.

Q. You have not given, directly or indirectly? A. No, sir.

Q. (continuing) Any money but \$13.70, for any purpose? A. One assessment. That was all.

By the Chairman:

Q. Were you asked to give any? A. No, sir; I was not. And furthermore, I have not got it to give.

The Chairman—That is all right. We do not question that; but the question is whether you had any instructions or requests.

The Witness—No, sir; I was never asked to give a dollar.



Q. Do you know anyone else in the police force who was asked?  
A. No, sir; I do not.

By Mr. Clarke:

Q. Did you ever hear in the department of any efforts being made to prevent legislation at Albany? A. No, sir; I have not.

Q. You never have heard a word of anxiety in the department as to the result of legislation? A. Well, as I say, if I would meet one of my brother captains, we might talk about it. "What do you think about it?" Or something like that. That is all. Just casual conversation.

Q. How about the chief and deputy chiefs? Did you ever hear any deputy chief express any anxiety in regard to legislation? A. No, sir; I did not.

Q. They never mentioned it, I suppose, in any shape, manner or form—this pending legislation? A. Not to me.

By Mr. Hoffman:

Q. Are you aware that the Raines law provides that no person can enter an incorporated club, without the written assent of the State commissioner of excise? Are you aware of such a provision of law? A. Yes, sir.

Q. There is such a provision of law? A. Yes, sir.

By the Chairman:

Q. Have you ever made a raid on any Raines law club? A. Oh, yes.

Q. Then, in spite of that, you have gone in without any such permission? A. And the judge has discharged them.

Q. You have made raids in spite of such provision, and you would do so again if you thought you could get evidence? If you thought there was a poolroom there, in the discharge of your duty as a police officer? A. Well, a man has got to be very careful. He might burn his fingers. Of course, there is only one way to do, to try to get legal evidence. If you do not, you leave yourself open to criticism by the press and everybody else. Of course, I don't believe in using axes or anything of that kind. If I can get evidence properly, I will do it.

Q. Have you ever been critized by the press for making a raid on any alleged poolroom? A. No.

By Mr. Clarke:

Q. Do you say, as a matter of exact knowledge, that the Raines law has a provision in regard to who shall or shall not enter an incorporated club? A. Well——

Q. No, I asked you that as a matter of exact knowledge. Is that true? A. So I understand.

Q. Did you ever see it there? A. We had one——

Q. Oh, answer my question. I asked you whether you know, as a matter of exact knowledge, that that is the Raines law? A. Yes, sir, I do.

Q. What is the provision? A. I will state a case in point.

Mr. Clarke—Please do not state the case. I want the law.

The Witness—I don't know the law. It has only been decided by one of the magistrates, where one of my men made an arrest.

Q. Are you talking about the decision or the law? A. One of my men made an arrest. I so understand it.

Mr. Hoffman—I call your attention——

Mr. Clarke—I submit that I cannot cross examine the Assemblyman.

Mr. Hoffman—There cannot be any dispute about a statute of the State, no matter what the witness might say. The law is there.

Mr. Clarke—Unfortunately I cannot cross-examine a member of the committee. I prefer to cross-examine the witness without interruption.

Q. Do you modify your statement now, after the suggestion made by the Assemblyman? A. Please repeat the question. Oh, I so understand in regard to the Raines law.

Q. Yes? A. Yes, sir, I do.

Q. That that is the direct provision of the statute? A. Yes, sir, where it is a chartered club.

Q. What is it that it says? A. I can't recall the law verbatim. I merely understand it is so; where it is a chartered club, a policeman has no right to go in there.

Q. That you understand as a matter of general law, or determination by some court; but do you say that there is a direct provision of the Raines law? A. I so understand it, yes, sir.

By the Chairman:

Q. Let me ask you this question: Suppose there were a chartered club in your district, and you knew or had good reason to believe that there was gambling or pool selling, and illegal devices, being carried on there; would you go into that club and make a raid on it? A. I would try and get the evidence; and if they refused me admittance, I would have no right there. If that is a chartered club, they have a right to kick me downstairs.

Q. Has that ever happened to you? A. It has happened to me; one case in particular, in Broadway and Thirty-fourth street.

Q. You were kicked downstairs? A. I was not kicked downstairs. I sent one of my detectives there. It was reported to me that there was pool selling. I sent Detective Day, I think it was, a man in citizen's clothing, and I said: "I want you to force your way into that place. I have got a lot of complaints about it, and I want you to break it up and clean it out." And he went to the door, and the man at the door resisted him. My instruction was—I says: "If he resists you, you bring that man in." He was brought to court and discharged by the magistrate. I don't recall the name of the magistrate.

Q. Then he was not kicked downstairs, as he brought the other fellow downstairs? A. He brought him down, yes, sir. He was discharged by the magistrate, and the magistrate told him that he had no right to force his way in, as long as it was a chartered club, if he didn't want to let him in.

Q. If a chartered club exists, notwithstanding the fact that you have reason to believe that illegal practices are going on there, you would go into that club? A. I would go in if they would let me in.

Q. You would not force your way in? A. Well, I would be—No, sir, that I would not do. The law would not allow me to do it.

Q. Do you think that feeling pretty generally prevails throughout the police force in New York city? A. So we understand.

The Chairman—Then there is something wrong?

The Witness—Something wrong; something wrong.

Q. It is in the law, or the enforcement of the law? A. As I say, we have made cases, and the judge has decided we have no right to go in there, as long as it is a chartered club, if they refuse to let us in.

Q. In any of these cases in which the complaint has been dismissed, did you find any evidence of gambling or pool selling, or any illegal act? A. No, sir; only it was represented.

Q. If you had found any such illegal practices, you would have felt that you would have been justified in taking that course? A. You are simply taking a chance.

Q. As a police officer? A. If you find evidence of any, and force your way in, it is all right; if you do not, you leave yourself liable.

Q. Have you ever been called upon to respond to damages in any such way as that, as a police officer? A. No, sir; I have not.

EDWARD G. O'BRIEN, being duly sworn, testified as follows:

Examined by Mr. Clarke:

My precinct is the Seventieth precinct. Bath Beach and Atlantic ocean, Gravesend bay. I don't know as it extends to the ocean. Twelve miles about from the New York city hall. I have been on the force nineteen years. I have been a sergeant about twelve. I live at 445 McDonough street, Brooklyn. Before consolidation I was at 75 North Moore street, New York. That is, my residence. I belonged to the old Metropolitan police of New York, the old New York city police, before consolidation, that is the municipal department, borough of Manhattan. I believe there is a benevolent association of sergeants of police in the city of New York. I really don't know the name. I could not give the exact date when it was formed. Possibly six weeks ago.

Q. Did you ever get a pink slip like that (showing paper to witness)?

The Witness—I will have to get my glasses to read.

Mr. Clarke—Put them on. We want you to know what you are talking about before you answer.



A. I don't remember receiving a slip of that kind.

Q. Do you recognize that paper? A. Well, I recognize the paper as——

Q. What is that kind of paper used for in the department? Is not that a regular order paper that is sent around? A. Well——

Q. Pink slips? A. Well, something like that on general orders. I never happened to see a notice like that. I don't remember of the name of the sergeant's association. I was not present when it was formed. I never attended a meeting. I was never asked to join.

Q. Did you ever have any talk with anybody about it? A. Well, with some people. I can't exactly remember who they were.

Q. How was it, if there was a sergeant's association, and you were a sergeant, you were not asked to join? A. Well, I don't know. I suppose it is open to all sergeants. Nobody asked me to join. Nobody has brought me an application to sign. No request of me was made to come in. I did not object to going into it. I was transferred to the Seventieth precinct about a month ago. I could not really give the date when I was transferred. I was in the Twenty-sixth precinct, New York. I had been in the Twenty-sixth precinct about one or two days. Before that I had been in the Twenty-first precinct. I had been there for about possibly eight or nine months. There were no charges pending against me. No complaint been made against me.

Q. And you were suddenly transferred down to Bath Beach, in the Seventieth precinct? A. I desired that.

Q. You what? A. I desired that on account of moving to Brooklyn.

Q. Then it was on your personal request that you went down to the Seventieth precinct, was it? A. Well, I didn't exactly ask for the Seventieth precinct. I asked to go to Brooklyn.

Q. And you struck Bath Beach? A. Yes, sir.

Q. When was it you objected to this sergeant's organization, and its purpose, and the amount levied? A. Well, I had no particular objection.

Q. Did you not make an objection, particular or otherwise? A. Well, no; I had no cause.

Q. Was it not three days after that, that you were sent down to Bath Beach? A. Well, I could not say any particular time.

Q. Is not that the fact? A. I don't exactly remember about the time.

Q. But you remember about the fact, do you not? A. You say about three days after being suggested to join the association, wasn't I transferred?

Q. That you objected to the assessment levied in the association, and the purposes for which it was made, you were transferred to Bath Beach, was not that so? A. Well, there was——

Q. Was not that so? A. No, sir; nobody ever made any suggestion to me about it.

Q. Nobody said a word to you about it? A. That is candid.

Q. And you never made any objections about it at all? A. No, sir.

Q. Then why do you not belong to the association? A. Well, I don't care about belonging to it.

Q. You do not care about belonging to it? That is the truth, is it not? You do not care about belonging to it; that is the solid truth, is it not? A. Well, I have no particular reason for not belonging to it.

Q. But you do not care to belong to it, and that is the truth, is it not? You just said so. A. I said so?

Q. You told somebody about that. You refused to join, did you not? A. Well, I had——

Q. You might as well be candid with me, because you have gone so far that you must go on. You said that you did not want to belong to it, and told somebody else that, too, did you not? A. Well, no; I didn't criticise on it, because it was not suggested to me.

Q. Then why do you think you do not want to belong to it? A. Well, I belonged to a couple of mutual aids some years ago, where, if a member died, why he was benefited by it. That is, he died—or something like that; and it busted up, and never after that—I never cared about joining any society.

Q. Do you think you were benefited by not joining this society? A. Well, I don't know as I have.

Q. You do not think the transfer to Bath Beach was a benefit, do you? A. Well, I do; yes, sir.

Q. You like that? A. Well, not particularly. It is on account of—I can explain that. Now, my wife is always wanting me to be home. We have moved to Brooklyn, and she requested that I be transferred over there.

Q. Then your wife is responsible for your transfer to Bath Beach, is she? A. No; she ain't exactly responsible; but I like to be home more; that is, to get home to meals.

Q. You refused to join the sergeant's association. How much were you asked to pay? A. Not a cent.

Q. Is that candid? A. That is candid; yes, sir; that is candid.

By the Chairman:

Q. You did not really believe that this association was organized for a benevolent purpose, did you? A. Well, I didn't—

Q. Was not that the reason you did not care to join? You did not believe they were sincere, with your experience of that kind of associations? A. I didn't give that sufficient thought.

Q. You did not take the thing seriously, did you? A. Well, in fact, I didn't give it a thought.

By Mr. Clarke:

Q. You knew very well it was for benevolent purposes, now, did you not? And you did not want to go into it? A. I never knew anything about it, other than there was such a thing.

Q. How much did you understand would be required to be paid by the sergeants? A. That never was suggested to me. I am speaking candidly.

Q. What were you kicking about, then? A. I was not kicking.

Q. Did you not? A. No.

Q. Did you not kick? A. No.

Q. You know what that means, do you not? A. Well, finding fault.

Q. You objected, did you not? You said you would not join, and objected to the amount of levy, did you not? A. It was not suggested to me to join.

Q. To whom did you make objections about joining? A. Well, I didn't make any objections.

Q. Was it not ever suggested to you that you should give up a certain amount? A. No, sir; it was not.

Q. In connection with this association? A. No, sir; now, honestly and candidly.

Q. Do you know why this association happened to be formed at this particular time?

The Witness—For what purpose?

Mr. Clarke—No; do you know how it happened to be formed at this particular time? A. No, sir.

Q. You do not? A. No, sir.

Q. Did you know that a captain's or officers' association was formed just about the same time? A. I do not.

Q. Did you ever hear about it? A. Only what I read in the papers.

Q. You heard about the Officers' Benevolent or Endowment Association being formed about the same time, did you not? A. I read of it in the papers.

Q. Did you hear about a roundsmen's organization being formed about the same time? A. No, sir; only what I read in the papers about it.

Q. You read in the papers it was formed? A. Yes, sir.

Q. Was it not a matter of talk in the department, about these different organizations? A. Not to my knowledge.

Q. Did you never hear anything said about this extraordinary breaking out of associations, like the measles, just the same time? A. No, sir.

Q. Never heard a word about it? A. No, sir.

Q. And did not object to going into it? A. It was never suggested to me.

Q. And did you not say you would not submit to the levy? A. It was never suggested to me.

Q. And as a consequence of that were you not transferred in three days to Bath Beach? A. I don't know as that had any tendency on that. I think I spoke to a couple of my friends for that transfer previous to that. Now, I am speaking candid. There was no suggestion made to me about a levy. I have got no reasons to suggest otherwise, relative to money. I did not hear about how much the sergeants were expected to pay. I did not get that far. I never had any talk with Sergeant Tims about this association. I never had any talk with Sergeant Flood about this association; I haven't spoke to anybody about it. I don't know who is the recording secretary of that association. I don't know who the financial secretary is; I never had any business with him; that is the reason I do not know.

Q. Do you know Sergeant O'Brien, another Sergeant O'Brien, who is on—is it Thompson's staff? A. Well, I believe there is a couple of Sergeant O'Briens.



Q. Yes, you are one and there is another one. Do you think there are two more? A. Thomas J.

Q. Who is the one at headquarters? A. I really don't know his initials, although I think it is Thomas. I think it is Thomas. I know him to speak to him; I don't remember ever speaking to him along in the end of February, 1899.

Q. Did he come to your precinct station house and have a talk with you about that time? A. No, sir. Talk about what?

Q. Anything? A. I believe we were repairing a station house there in the twenty-first, if I ain't mistaken. I don't know the exact date of that.

Q. Have you had any talk with him about the sergeant's association? A. Not a word. Now, that is candid about that levy. There was no suggestion made to me about that. I say that open and above board.

By the Chairman:

Q. About what levy do you speak now? A. This gentleman here says a levy of some kind.

Q. This is the first you have heard of such a levy, is it? A. Only what I read in the papers. There has no suggestion been made to me in regard to any levy, as you term it. That is candidly speaking now.

By Mr. Clarke:

Q. You never saw me before you came on this stand, did you, or Mr. Moss? You may have seen Mr. Moss. A. Yes, sir; I believe——

Q. But you have had no word of conversation with anybody connected with this committee before you came on the stand? A. No, sir.

Q. In any shape, manner or form? A. No, sir.

Mr. Clarke—That is right?

The Witness—This is the first time I have ever seen Mr. Moss, although he has been our commissioner several years.

By Mr. Moss:

Q. You never were on trial? A. No, sir; not during your time. I happened to be on the right side of the house at that time.

Q. You happened to be on the right side of the house at that time? A. No, I don't exactly mean that. I say that I was not on trial before you.

By Mr. Clarke:

Q. I wish you would be just as candid with me as you have been with the commissioner. A. I am telling the commissioner and yourself that there has been no suggestion made to me about money, particularly about a levy. That is candidly speaking.

Q. What was the talk in the department about it? A. There has been no suggestions made to me about money.

Q. What was the talk in the department about it? A. I have not held any conversation with anybody.

Q. But you heard about it? A. You must understand——

Mr. Clarke—I understand all about it.

The Witness—There has been no suggestion.

Q. What was it in the department? How much was to be paid by the sergeants? A. I——

Q. Now, now, come; now come; now, how much was it? A. I——

Q. Oh, tell us right out, now? A. I haven't heard.

Mr. Clarke—You are on the stand, under oath.

The Witness—I know.

Mr. Clarke—You are a good man; you have a good record. Now tell us straight. Let us find one police officer that will talk straight.

The Witness—I am telling you candid, there was no suggestion made to me.

Q. How much was it? A. I don't know.

Q. Never heard? A. Never heard. That is candidly speaking.

Q. Can you give us any reason, under God's heaven, if what you now say is true, why you did not join the organization? A. I didn't join the organization——

Q. Why did you not? A. Well, I didn't care about it.

Mr. Clarke—Don't stop to think; tell me right straight out.  
The Witness—I have no particular reason.

Q. Do you know of anybody else that did not join it? A. I have no knowledge.

By the Chairman:

Q. Have you talked with any of the other sergeants about this association? A. No, sir.

Q. None of them ever asked you whether you had joined or not joined? A. No, sir; they never asked me; no, sir.

Q. Is not that a little bit peculiar? A. It may look peculiar.

Q. Do not you sergeants generally talk over these matters, and confer with each other as to what is your interest and what you think you ought to do about matters of that kind? A. I don't have much to say. I am of a reserved disposition.

Q. No; but I mean, generally, do you not discuss matters of that kind that relate to your interests or that of others? A. That might possibly——

Q. Have you had any talk with any of the other sergeants about this organization? A. No, sir; I have had no conversation with them.

Mr. Clarke—I am disappointed; but I am going to start at it again. I thought you would tell us. Let us see if I can refresh your memory.

Q. Do you know Tims? Sergeant Tims? A. Yes, sir.

Q. You know he is the president of that sergeant's association, do you not? A. I really don't know.

Q. Didn't you ever hear he was president? A. No, sir.

By the Chairman:

Q. You read it in the papers, did you not? A. Yes, sir.

By Mr. Clarke:

Q. When were you transferred to Bath Beach? What date?  
A. I could not give the exact date.

Q. Was it before or after March 2, 1899? A. That I couldn't say, really.

Q. You could not possibly tell us that? A. I could not possibly say the exact date.

Q. Was it in March? A. I think it was around the 1st of March.

Q. How long have you been down there? Put it in weeks? A. Well, about—this is the 24th—

Mr. Clarke—Yes, the 24th of April.

A. (continuing) About five weeks possibly; thereabouts. I would not be positive.

Q. Then you were in New York in March, were you not? A. I think I was.

Q. Do you know where the Murray Hill lyceum is? A. I think that is—Murray Hill theatre, isn't it?

Mr. Clarke—The Murray Hill lyceum.

The Witness—Thirty-fourth street and Third avenue.

Q. Were you ever there? A. I have been there.

Mr. Clarke—Certainly, you have.

The Witness—That is, in the line of duty.

Q. When you were there last, sergeant, the meeting was called to order by Tims, was it not?

The Witness—What meeting?

Mr. Clarke—The last meeting you attended there? A. I never attended a meeting there. I have dropped in there when there were balls there during the winter, when I was on patrol.

Q. Was there a ball there when Tims was presiding and ordered the doors closed? A. I was not there when Tims was there.

Q. You were not there? A. No.

Q. Did you not hear an announcement that the meeting was to create a fund by which, on retirement or dismissal he should



draw \$250, and on death his widow draw \$500? A. I don't remember anything of that kind.

Q. You did not hear any such reason as that stated for forming this sergeant's organization? A. I don't remember having heard it.

Q. Is this the first time that you have heard that proposition? A. This is about the first time.

Q. About the first. How many other times have you heard it? A. Only when I have seen it in the papers.

Q. Then all your knowledge is derived from the papers. Do you believe the papers? A. Well, I have got my opinion. I don't believe all it prints.

Q. Do you read the papers on police matters? A. Police matters as well as other things.

Q. You know certain police legislation was pending at Albany this year, did you not? A. Yes, sir, I knew it.

Q. You knew that that provided for a reorganization of the force, did you not? A. I believe so.

Q. You knew that one of the bills provided for the wiping out of the four-headed, bi-partisan commission, and the formation of a single headed commission, did you not? A. Yes, sir.

Q. You felt that that would have a good deal of effect upon the personnel of the force, did you not? A. Not on all.

Q. Precisely. But you know that there were lots of officers in the board who did not want that sort of a change, did you not? A. That I could not say.

Q. You did not care. But you knew that the officers were discussing it and were afraid of the change, did you not? A. Well, I didn't hear anything in relation to them being afraid.

Q. Did you not? A. I know that I was not afraid.

Q. Of course you were not, but you were sent to Bath Beach. But you knew, from your knowledge of the department that certain men ought to be afraid of such a change, did you not? A. Well, I don't know as I——

Q. You do not like to say. That is right. You do not like to say, but you must say, you must say, sergeant, that you had heard such things discussed in the department, because it is true, is it not? A. Well, no, I have not, now. That is not so. I have not heard anybody discuss it.

Q. You heard a letter read at that meeting from a Brooklyn assemblyman, did you not? A. I was not at the meeting. I didn't hear any letter.

Q. Did you not drop in at all? A. No, sir.

Mr. Clarke—I thought you said you dropped in, awhile ago.

The Witness—That was in the balls, during the winter, when I was there officially.

Q. Did you not hear a letter read, saying to the sergeants and patrolmen and roundsmen that no bill in Albany jeopardized their interests? And did you not hear that Tims suggested that they then pass from labor to refreshments? Did you ever hear that phrase? A. No, sir.

Q. Did you ever hear Tims say that? A. No, sir, I don't take

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Q. You do not take what? A. I don't take refreshments. That is, to drink.

Q. This was not that kind of refreshments. Was Flood there?

The Witness—Where?

Mr. Clarke—Now, sergeant?

The Witness—I am really candid now.

Mr. Clarke—I know; you are candid, but you are preserved. You do not tell it to us all.

The Witness—Sergeant Flood—I didn't meet Sergeant Flood anywheres in particular.

Q. Do you not know that the doors were locked after that, by Tims's orders? A. No, sir, I do not. That is candidly a fact.

Q. And do you not know that every man was then examined and talked to, with the doors locked? A. I was one that was not.

Q. You kicked. That was the reason you were not, was it not? A. No, sir, I was not there to kick. That is candid.

Q. My information is this. Let me read this to you. This is information straight. "They stood around and Flood saw them." You know what seeing a man means, do you not? A. Yes, sir.

Q. "And they paid him." A. I beg pardon. About seeing, now—

Mr. Clarke—Wait.

The Witness—I know. You convey the idea about the seeing portion. What do you mean by that?

Q. Do you not know? A. No, I do not.

Q. What is it, in police phraseology “to see a man?” A. Well, that is to see him with your eyes.

Mr. Clarke—All right.

The Witness—I am giving you candid information in regard to——

Q. What did you hold me up for on my question, to have an explanation of the word “See” for? A. That is a kind of phrase that is used about town—“to see.”

Q. You have heard it about town? A. Not on that occasion.

Q. But other occasions. You recognize it as a phrase about town? Now, nobody is about town so much as a policeman, is there? A. That is right.

Q. Have you heard that phrase in connection with your being about town as a policeman? You have heard the phrase? A. Well, I have heard the phrase.

Q. Why did you want to stop me and ask an explanation? You wanted to be sure about the phrase? A. Not exactly.

Q. Now, let me go on. “And they paid him at a table, all but six, of whom O’Brien was one?” A. No, sir, you are wrong there.

Q. Then you did pay? A. I did not; and I was not there.

Q. You never paid? A. No, sir.

Q. You never joined the association? A. No, sir.

Q. You refused to do it. You did not believe in it? A. I——

Q. Wait a moment. You refused to do it? You did not believe in it, did you? A. No, sir.

Q. And you were transferred to Bath Beach, twelve miles from the City Hall and your home? A. I was transferred to Bath Beach.

Mr. Moss—I ask that at this time that section of the Raines law be read in evidence. Mr. Hoffman referred to it.

By Mr. Hoffman:

Q. Just one question before you go on. Do I understand you to say that you were transferred at your own request?

Mr. Clarke—No, he did not say that.

Q. What have you said upon the subject? A. I made that suggestion to a couple of friends of mine, to be transferred to Brooklyn; not to Bath Beach particularly.

Q. Bath Beach is a part of Brooklyn, is it not? A. It is now, yes, sir.

Mr. Moss—I will read in evidence the section, at page 59:

“ \* \* \* except that places occupied by membership corporations, incorporated prior to the 23rd day of March, 1896, which traffic in liquors, solely with members thereof, shall not be entered for inspection by any officer, unless such entry and inspection is expressly authorized and directed by the State Commissioner of Excise by written instructions.”

This is according to the statements made by Assemblyman Hoffman.

OLIVER E. TIMS, being duly sworn, testified as follows:

By the Chairman:

I am a sergeant.

Examined by Mr. Clarke:

I have been in the police department going on thirty-four years. I have been sergeant going on twenty-eight.

Q. Is not that rather long for a man to stick in a grade? A. Well, there are longer.

Q. You are the orator of the police department, are you not? A. Yes, sir; they have nicknamed me that.

Q. And you are a Shakespearean scholar, are you not? A. No, sir; I don't lay any claim to that distinction; I like and enjoy Shakespeare, and am found of quoting it. I have never been in headquarters. I am now in the Seventeenth precinct, West



Twentieth street near Eighth avenue; I have been there about three months. I am the president of the Benevolent Association of Sergeants that was formed. The last organization was in 1894; about February, 1894. It lasted up until here about a month ago, and we formed a new one. That old one was in existence all of that time. It was formed for a benevolent purpose. I have got the constitution here. We had regular meetings. We formed a new association in March, 1899. I don't know whether it was about the time the captains formed theirs; I have never heard of the captains forming one.

Q. Are the different grades in the department so fixed, like Indian castes, that they do not know what is going on in the upper grades? A. Well, that is about the size of it, I suppose.

Q. You know very well that the captains formed an association in March, do you not? A. I heard they were about to form, but I didn't hear that they did form—through the newspapers.

Q. You knew, as a matter of knowledge in the papers, that they did form one, did you not? A. Yes, sir.

Q. Did you not know the roundsmen formed one? A. They have had one a long time.

Q. Did you know the patrolmen formed one? A. Yes, sir; they have had one also.

Q. Did not the roundsmen sort of re-organize about February or March? A. I never heard of it.

Q. Did you send that notice out? Is that one of your pink slips? A. Yes, sir; that was sent out by my directions.

Q. That is the official paper of the department, is it not? A. Yes, sir. I don't know that, whether it is considered the official paper or not. I could not say.

Q. That paper is used in sending orders from the department, is it not? A. Paper like it. Similar to this, I guess, yes, sir.

Q. That was sent out in the ordinary way in which a departmental order is sent out, was it not? A. No, sir.

Q. How was it sent out? A. It was simply placed in the boxes, directed to the various precincts.

Q. Addressed to all the sergeants? A. Yes, sir.

Mr. Clarke—I offer this in evidence.

The paper is marked "Exhibit Q."

Mr. Clarke—I will read it:

"NEW YORK, March 2, 1899.

"A regular meeting of the Police Sergeants Endowment and Benevolent Society of the city of New York, will be held on Saturday, March 4, 1899, at 8 o'clock p. m., at Murray Hill lyceum, on Thirty-fourth street, near Third avenue, borough of Manhattan. To become a member of this society it is necessary for sergeants of police to pay an initiation fee of one dollar. If you cannot attend this meeting and wish to join the society, fill out the enclosed blank, and send it, with one dollar for initiation fee to the meeting at the time and place specified, or to Sergeant John W. O'Connor, financial secretary, at Sixty-third precinct station house, borough of Brooklyn, or to Sergeant Thomas E. O'Brien, treasurer, at central office, borough of Manhattan on or before the date of the meeting.

"OLIVER E. TIMS,  
"President.

"JAMES E. HUSSEY,  
"Recording Secretary."

That was the first meeting of the association.

Q. How did you sign it as president, if that was the first meeting of the association? A. No, that was not the first meeting. We organized before that. Well, about a week or so, I guess, before that.

Q. That would bring us back along about the 20th or 25th of February. Is that right? A. Yes, sir; about that. About that; about a week before that. I really could not remember how many attended that first meeting. It was held up in Murray Hill lyceum, I think it was in the same place. It was held after a general invitation to sergeants.

Q. How did you come to be elected as president at that informal meeting, when you say this meeting of March 4th was the first regular meeting? Did you appoint yourself president? A. No, I did not. I was elected.

Q. How many people were present to elect you? A. I suppose there was between sixty and eighty.

Q. At that first informal meeting? A. Yes, sir; I think so.

Q. How many sergeants are there in the department? A. There is about 320, I think. Somewhere in that neighborhood.

Q. Who conceived the idea of the first meeting, at which you were elected president, do you know? A. Well——

Q. Who? A. Well, we——

Q. Who? A. That meeting had been talked of for a long time, or rather, that re-organization, and uniting with the Brooklyn sergeants—had been talked of for a long time, and it didn't culminate until that time.

Q. I ask you who talked about that first meeting? Who first conceived it? A. Numbers and numbers of sergeants, from time to time, have talked about it, and they have sent me letters.

Q. Wait a moment; how was it that it happened to be held just at the last week of February, 1899? A. Well, I could not say exactly.

Q. There was no reason in the world? A. It was a coincident, excepting——

Q. Coincident with what? Wait a moment. A. The fact that there was a meeting at that time.

Q. Was coincident with what? A. Nothing.

Q. That is candid. How did you happen to use the word coincident, then? A. It happened at that time, at that particular time.

Q. Was it coincident with the captain's organization? A. No, sir.

Q. Or the police legislation in Albany? A. I don't know anything about the captain's association.

Q. Or the police legislation? A. No, sir.

Q. What was it coincident with? A. With that particular time.

Q. Oh! It was coincident with itself? A. That is right.

Q. Do you know what coincidence means? A. I do.

Q. What does it mean? A. Well, in accordance with.

Q. What was it in accordance with at that meeting? A. Will I tell you?

Mr. Clarke—Certainly.

The Witness—We had had a discussion——

Q. No, what was it in accordance with—coincident with—at that time? A. To consider some of the rules in the police department which have been considered incongruous, and a burden to the sergeant; and also to make a uniform—to have certain rules uniform. It has been ascertained that in the various inspection districts there has been a conflict in regard to various rules and methods of doing things; so that when sergeants were

transferred from one inspection district to the other, they found themselves handicapped.

Q. Now, sergeant, do you mean to say that the Police Sergeants' Endowment and Benevolent Society met coincident with the incongruity of the rules of the department? A. About that, yes, sir. You could——

Q. About that? A. Yes, sir; you could put it in that shape.

Q. You mean to say you formed this Endowment and Benevolent Society to change and fix the rules of the department? A. Yes, sir. That was only——

Q. How about the laws of the department? Had it anything to do with that? A. No, sir.

Q. Only the rules? A. Only the rules.

Q. Under which head would that come—endowment or benevolent? A. Of course, we always had the benevolent. The benevolent has always existed.

Q. The poor were always with you? A. Yes, sir, always.

Q. This was larger than the benevolent then? It was endowment? A. Well, benevolent and endowment.

Q. Did that endowment have anything to do with this consideration of the rules and laws? A. No.

Q. You knew certain legislation was pending at Albany in the spring of this year, did you not? A. Yes, sir.

Q. Oh! You really did? A. Oh, yes, sir; sure.

Q. You knew that that legislation affected materially the police department of the city of New York, if it should pass, did you not? A. Well, no, I was not duly impressed with that fact.

Q. You thought it made no difference, so far as the force was concerned? A. No, sir, I did not.

Q. Wait a moment: whether there was a bi-partisan four-headed commission or a single head? It made no difference, to your mind? A. No, sir, no difference.

The Chairman—Perhaps he means that he did not think it would become a law.

Q. Yes; well, I am getting at that; and you did not care, so far as you and your fellow sergeants were concerned, whether the State constabulary bill passed or not, did you? A. Well—



Q. Now, did you? A. No, not in particular.

Q. Did that confidence grow out of the fact that you felt sure none of those bills would pass? A. No, sir.

Q. And was not your Endowment and Benevolent Association formed with that end in view? A. No, sir, it was not. It was not.

Q. Although it happened to be formed in the end of February, 1899, at the time the Captains' Association was formed? A. I don't know about the Captains' Association.

Q. No; but you have heard that, have you not? A. It is in the papers. I read it in the papers.

Mr. Clarke—Well, we will assume, in this instance, that the papers told the truth, because it has been testified to here.

The Witness—Yes, sir.

Q. Those two things, coupled with the police legislation pending at Albany—they were not coincident, were they? A. Well, I don't know.

Q. That is not what you referred to when you said coincident, did you? A. No, sir. I referred to nothing special. You asked me why we met on that particular day.

Q. And you said it was coincident? A. Yes, sir.

Q. Now, let us see. You met at Murray Hill lyceum on the 4th of March, as called for by this pink slip? A. I don't remember the date exactly.

By the Chairman:

Q. Who kept the minutes? A. The recording secretary, Hussey; James E. Hussey.

Q. Who kept the minutes of the first meeting at which you were elected president? A. Hussey did.

Q. Has he the minutes? A. Yes, sir.

Q. Does that show the names of the members who were present? A. No, sir, I don't think it does. They were called by precincts and not by names.

Q. Then the roll would not show the number of men who were present, or the names of the men present? A. Yes, sir, it would show the number of the men.

Q. Not the names? A. Not the names.

Q. What is the secretary's first name? A. James E.

Q. James E. Hussey? A. Yes, sir.

Q. Where is he? A. At police headquarters, Mulberry street. He is attached to the—to one of the inspection districts.

By Mr. Clarke:

Q. You called that meeting to order as president, did you not?

A. I did.

Q. Did you announce the purpose of the meeting? A. Yes, sir.

Q. What did you say? A. Well, I really couldn't say now. I spoke about the necessity of union and the necessity of uniting for benevolent purposes, and also for the purpose of seeing that certain rules and regulations in the department, which bore rather heavily on sergeants, were changed.

Q. Is that all? A. Yes, sir.

Q. That is every word you said? A. Well, I don't know.

Q. That is the substance of what you said? A. That is about the burden of the remarks.

Q. Are you serious about that? A. Yes, sir; I am; most decidedly.

Q. And that is all that you said? A. Yes, sir.

Q. Are you quite sure? A. I could not say from memory, just now, what I did say exactly.

Q. I do not ask you for that? A. I didn't have a set speech. It was purely extemporaneous.

Q. That is what you are famous for, is it not? A. Well, I don't know that I am famous for anything.

Q. I am not talking about exact words; but I ask you whether those were all the topics about which you spoke? A. As near as I can recollect, yes, sir.

Q. Are you sure of that? A. Well, as near as I can remember.

By the Chairman:

Q. You have a letter there from an assemblyman in regard to this matter, have you not? A. No, sir, I have not.

Q. In those papers? A. No, sir, I have not.

Q. Those papers you have in your hand? A. No, sir.

By Mr. Fallows:

Q. Did you have an envelope there with the Assembly heading on it?

The Chairman—Will you let me see those papers?

(The witness handed a number of papers to the chairman.)

Mr. Clarke—Put up that other paper. Hand that up. Did not that contain a letter which you read that night?

The Witness—No, sir, it didn't contain—it was not addressed to me at all.

The Chairman—It is addressed to Sergeant Ganz. How did you get it?

The Witness—He gave it to me.

The Chairman—Stamped, "Albany, March 19, 1899; State of New York; Assembly Chamber."

The Witness—Well, I don't know what it contained.

The Chairman—It is addressed to Sergeant Ganz, Sixty-fourth precinct, Brooklyn, New York.

By Mr. Fallows:

Q. Who gave it to you? A. I suppose that Ganz gave it to me.

Q. How did he come to give it to you? A. I could not say.

By the Chairman:

Q. Do you know what was in it? A. No, sir, I do not.

Q. Is this your writing, "81 Gaines street?" A. No, sir.

The Chairman—Who is Edward Sousa?

By Mr. Clarke:

Q. What is that pink slip there? Is that another order of yours? A. Yes, sir, it is addressed to me. That came to me the same as that.

Q. What is that other paper? We may find something interesting here? A. No, sir, it is not.

Q. What is that? A. The officers of the association.

Mr. Clarke—Let us have those on the record.

By Mr. Fallows:

Q. Do you know whose handwriting this is? A. Let me see if that is the officers.

Mr. Clarke—The first man on the list seems to be Edward A. Ganz, Sixty-fourth precinct, committee of Brooklyn sergeants. Now. Let us have them here. This paper which you hand me, and which you say has the officers of the association, reads as follows: "Committee of Brooklyn sergeants, Ganz, Edward A., Sixty-fourth precinct; Humphrey, Thomas C., license squad; Buchanan, John, Forty-seventh precinct; O'Brien, John J., Fifty-seventh precinct; Maud, Thomas, Fifty-first precinct." Is that right?

The Witness—Yes, sir.

Mr. Clarke—"James Reilly, Thirty-fifth precinct; John Townsend, Twenty-second precinct; Thomas E. O'Brien, C. O.; Dennis Brennan, Twenty-fifth; John W. Cottrel, 10; Edward Ganz, chairman; John W. Cottrel, secretary; Murray Hill lyceum, Thirty-fourth street and Third avenue, 8 p. m."

Q. What do you say that is?

The Witness—Which?

Mr. Clarke—The paper which you handed to me? A. That was a list of the officers. That is all. I thought you might want that and I just got it.

Q. That is very kind of you; but what officers were they? A. They were a committee who waited on us, from Brooklyn.

Q. Waited on whom? A. On a similar committee appointed from New York.

Q. Where? What was the committee? What was this meeting for? A. For the purpose of forming a permanent organization.

Q. How did this happen to be on this one slip of paper? A. Oh, I wrote that down simply.

Q. When? A. A few days ago, I suppose.

Q. What did you write it for a few days ago? A. I thought that possibly it might be wanted.



Q. Where did you think it might be wanted? A. Well, I don't know.

Q. For what purpose did you think it might be wanted? A. I suppose I wrote them for my own purposes.

Q. For what purpose did you think it might be wanted? A. I don't know. I wanted to refer to it myself.

Q. What for? A. I wanted to know the names of the committee.

Q. But you had already been elected president and had your own committee. This committee is not in existence now? A. No, sir.

Q. For what purpose was it prepared? A. I wrote it at the time.

Q. To see other sergeants? A. No, sir, I wrote it at the time.

Q. You said you wrote it two or three days ago? A. Yes, sir, probably a few days ago I wrote it.

By the Chairman:

Q. This meeting was in February, two months ago? A. Well, yes, sir. I don't remember when I wrote that, in fact.

By Mr. Clarke:

Q. Is that all in your handwriting? A. Let us see.

Mr. Clarke—Look at it.

The Witness—No, sir, it is not.

Mr. Clarke—I thought you said you wrote it two days ago?

The Witness—I wrote some of it, I think.

Q. What did you write? A. Let me see. (After reading it.) I didn't write any of that at all.

Q. And yet within three minutes you said you wrote it all two or three days ago. Where did you get this from? A. I have had it in my pocket a long time.

Q. How long? A. Probably two months.

Q. Who wrote it? Whose handwriting is it in? A. I don't know. I could not say.

Q. Look. You say now you have had it in your pocket a couple of months? A. Yes, sir, I could not say.

Q. You could not say anything about it? Will you look at me?

A. Yes, sir.

Q. Do you say you cannot tell anything about this paper? A. I don't know who wrote those names.

Mr. Fallows—Give all those papers from both hands.

Mr. Clarke—Throw up your hands. "Give up."

Mr. Fallows—We want all of those papers; this also.

By Mr. Clarke:

Q. There is something written on the back of this. In whose handwriting are those names? A. I didn't write this at all. I made out a list some time ago, and I thought I had it in my pocket.

Q. I have asked you to look at the back of this paper. Do not look at anything else. You have got your glasses in your right hand. Whose handwriting are those names in? A. I guess I wrote that.

Q. What did you write those for? A. Oh, I could not say.

Q. When did you write them? A. I could not say.

Q. Why are they checked off? A. I could not say that. I don't remember.

Q. You do not know why they are checked off? A. No, sir.

Mr. Clarke—Let us have the paper back. That is precious. I think we had better have them all marked, so that we can have them identified here.

Mr. Fallows—I wish you would have all of them marked—each one.

Mr. Moss—Mark them for identification at the present time.

The Witness—That is my private papers there.

Mr. Clarke—You handed those to the committee, and you would not be so impolite as to take them back?

The Witness—There is nothing in that at all. (Throwing a paper away.)

Mr. Fallows—Never mind. Don't do that. That is very interesting.

By Mr. Clarke:

Q. What are these figures on the back? A. This is a receipt for my rent. You don't want that.

Q. What is this calculation on the back? Has it anything to do with the Benevolent Association? A. No, sir, it has not.

Q. What is that? A. I don't know what it is.

Mr. Fallows—It figures out \$1,200.

The Witness—Nay, nay, nay, good sir. You may want to have this thing explained.

Mr. O'Sullivan—I move that some description be taken of these papers, so that this man is not charged later on with giving up papers that have never been in his possession.

The Chairman—The committee will take care of that.

Mr. Hoffman—I suggest to the committee that each paper that has been confiscated be read off at this time, so that there can be no mistake as to what papers were turned over and what the contents are.

By the Chairman:

Q. You give these papers up willingly, do you not? A. Yes, sir.

Q. There is nothing you object to, is there? A. No, sir.

Mr. Fallows—What is that? That is very important. Put them one side and mark them after awhile.

The Witness—Do you want the constitution? You can have it. It is about the only one I have got, though. I brought it along for you.

(The papers were subsequently marked "Exhibits R to Exhibit Z," both inclusive.)

Mr. Clarke—The others have reference to the Sergeants' Association?

The Witness—I don't know that they have, because that is not—

By Mr. Fallows:

Q. You have given this up because it has reference to the Sergeants' Association? A. No, sir, I did not.

Q. Why did you specify that particularly as being a private memorandum? A. Because it is.

Mr. O'Sullivan.—It is the only one he looked over, he says.

The Witness—It is the only one I looked over.

The Chairman—He said he gave them up willingly and voluntarily. Is that correct?

The Witness—Yes, sir.

Mr. Hoffman—He said that after the papers had been turned over.

The Chairman—He says so now.

Mr. Fallows—That statement was made after the papers were turned over by him.

The Witness—You insisted on having those papers.

The Chairman—He states now that he has no objection to the committee having examined them.

The Witness—When shall I receive those papers? One of them is very essential.

Mr. Clarke—Now let the stenographer finish marking, and then we will fix it, sergeant, so that any paper you say is private, you will receive.

(The papers were then marked by the stenographer, as heretofore recorded, from Exhibit R to Exhibit Z.)

By Mr. Clarke:

Q. This is a communication addressed to the chief? A. Yes, sir.

Q. We would like to have that. That is marked "R." I will see that you have this, myself, and will put it in my pocket and see that it is returned to you, personally, as soon as it can be copied.

The Witness—All right.

Q. You want to have it back? That is what you want about it?

The Witness—Do you want this?

Mr. Clarke—The pink slip we do not care about, because we have one.



The Witness—This has no reference to this matter at all. That is the old association and has no reference to this new one at all.

Mr. Clarke—Then you refer to an exhibit marked “X” of the papers which you handed up; and you say that has no reference to the matter under inquiry, but applies to the old association?

The Witness—It was the old association. Mr. Moss said he did not want to know anything about the old association.

Mr. Clarke—Never mind what Mr. Moss said—at the present time. Now, I read this: it says:

“NEW YORK, *February 12, 1894.*

“To the Municipal Police Sergeants’ Benevolent Association of the City of New York.

“Gentlemen: I desire to become a benefit member.

“Respectfully,

“Sergeant JOHN J. McNALLY,

“Precinct No. 28.”

So late then as February 12——

The Chairman—Is that 1894 or 1899?

Mr. Clarke—1894.

Q. At that time the old association was known as the Municipal Police Sergeants’ Benevolent Association? A. Yes, sir.

Q. And you say that has nothing to do with this? Now, there are upon the back of it a number of names and figures. What are they? A. That is a private business, altogether.

Q. Is it private business? A. Yes, sir; I know it is.

Q. James Reilly. Who is he? A. I don’t know, exactly.

Q. Is he not a police sergeant? A. I believe he is; yes, sir.

Q. Is not John Townsend a police sergeant? A. Yes, sir.

Q. Is not James Lonsdale, with his name crossed out, a police sergeant? A. Yes, sir.

Q. Is not James O’Brien a police sergeant? A. Yes, sir.

Q. And is not Dennis Brennan a police sergeant? A. Yes, sir.

Q. Is not George Brennan, with his name crossed out, a police sergeant? A. Yes, sir.

Q. Is not John Cottrel a police sergeant? A. Yes, sir.

Q. How did those sergeants come there, on that piece of paper?

A. I appointed them on a committee. That is all.

Q. Why do you call it a private business? A. Well——

Q. Have you got the bacillus? A. No, I have not.

Q. What committee was that? A. That was a committee to meet with the Brooklyn committee.

Q. When appointed? A. Yes, sir.

Q. When was it appointed? A. I could not tell you that.

Q. It is the same committee that is on this larger paper? A. No, sir; I guess not. That is the New York committee I have got on there.

By the Chairman:

Q. Why is that a private matter, if that is a committee appointed to confer upon this benevolent fund? A. I didn't know, when I first saw it.

Q. Then it is not a private matter and you are willing to correct that? A. Yes, sir.

By Mr. Clarke:

Q. Sergeant, I was asking you about what you said at that meeting in the Murray Hill lyceum, and you said that you had exhausted your memory upon the subjects that you spoke about. Now, did you not say anything at that time about the creation of a fund? A. No, sir, excepting for a benevolent purpose—for the endowment and benevolent purpose; that is all.

Q. Then you did say something about the creation of a fund? A. Yes, sir.

Q. Why did you not say that before when you gave the account of what you said to the meeting? A. Well, I said I didn't exactly remember everything I said.

Q. Did you not remember you talked about a fund that night? A. Yes, sir.

Q. Then why did you not say so? A. You have jogged my memory now.

Q. No; but I say, did you not remember before I jogged your memory? A. No, sir; not just on the spur of the moment; I didn't remember.

Q. You had quite a while to think about what you said. I asked you a number of questions in regard to it, did I not? A. No.

Q. And I asked you over and over if that was all you talked about? A. Well, all that I remembered, I said.

Q. But now you have recalled that you did talk about the creation of a fund? A. Yes, sir; I believe I did.

Q. Was there a letter read to that meeting? A. No, sir.

Q. There was no letter read? A. I don't remember reading any letter.

Q. Ah! Do you deny that there was a letter read? A. No, sir; I do not; I don't remember.

Q. You don't remember anything about a letter? A. No, sir; I do not.

Q. From an assemblyman? A. No, sir; I do not.

Q. From a Brooklyn assemblyman? A. No, sir; I do not.

Q. Do you say there was no such occurrence? A. I could not remember.

Q. But you do not undertake to say that no such letter was read? A. Oh, there were numbers got up and spoke about various things, and they read memorandums, and one thing and another, so that I could not remember.

Q. Then there were a whole lot of things being attended to, were there? A. Yes, sir; some were in favor of one measure, and another in favor of another.

Q. And some in favor of one amount and some did not approve any amount? Is not that true? A. Yes, sir; in regard to the benevolent part of it. Some wanted to make it five dollars and some one dollar, and so on.

Q. And it was agreed to make it twenty-five apiece, was it not? A. It was agreed to make it one dollar, as it is mentioned on that paper there. That was the final agreement.

Q. That paper was gotten up before this meeting and sent out before the meeting, and it was the call for the meeting, was it not? A. Well, it was mentioned at that meeting. That was the subsequent result of what occurred.

Q. The previous notice was the subsequent result of the meeting? A. Yes, sir.

Q. Is that what you mean to say? A. Yes, sir; that was the idea. No, the notification on that pink paper, I say, was the subsequent result of what was agreed at the meeting.

Q. Although it was sent out two days before the meeting? A. No.

Q. It was not? It is dated March 2d? A. We had a meeting before that. We have already spoken about that.

Q. At the meeting that you had before that, was a letter read from a Brooklyn assemblyman? A. No; I don't remember.

Q. Were there a number of things discussed at that previous meeting? A. No, sir; I don't—well, there was.

Q. Was a fund discussed at the previous meeting? A. The fund in regard to the benevolent association.

Q. Were the doors locked at the previous meeting? A. I don't remember.

Q. Did Flood go around and interview all the sergeants at the previous meeting? A. No, sir; he did not.

Q. That was at this meeting, was it not? A. No, I didn't see him interview anybody.

Q. Was he not there? A. I believe he was; yes, sir.

Q. Who is Flood? A. Sergeant Flood is attached to police headquarters.

Q. Who is he attached to? A. The chief's office, I believe.

Mr. Clarke—Let me read to you. Did not this letter which was read from a Brooklyn assemblyman, advise the sergeants, patrolmen and roundsmen that no bills at Albany jeopardized their interests? Was there not such a letter read there?

The Witness—No.

Q. Are you sure? A. No, sir; I don't remember.

Q. Will you deny it? A. No, I will not deny it. I don't remember. I can't think.

Q. Did you suggest that the meeting pass from labor to refreshments? A. No, sir.

Q. Are you sure? A. That is a word I have, which a good many probably here knows what it means.

Q. What does that mean?

The Witness—Are you a Mason?

Mr. Clarke—No.

A. All right; then you don't know what it means.

Q. No, I don't know what it means. Did you use it that night?

A. I may have.

Q. Did you use it in the Masonic meaning in that connection?

A. It is a word I often use.



Q. After that was the door locked? A. No, sir; I don't remember the door being locked at all.

By the Chairman:

Q. Do you feel at liberty to explain here publicly what you mean by that term? Is that a Masonic term? A. I don't know that I made use of it at all. I don't remember using that.

Q. You say it is an expression you use frequently? A. Yes, sir; I do, and others who understand it may use that also; hundreds of times you hear that word made use of.

By Mr. Clarke:

Q. Has it a specific signification? A. No, sir; not that I know of.

Q. After this proceeding had continued a certain length of time, do you not know that every sergeant there was talked with personally? A. No, sir.

Q. Do you say he was not? Do you say that no sergeants were talked with personally? A. No; I don't remember.

Q. Do you say there was not a table in the room? A. Yes, sir; there was.

Q. There was a table? A. Yes, sir; several of them.

Q. Who presided at any table? A. I presided at one.

Q. That was the president's table? A. Yes, sir.

Q. After you got through the meeting, who presided at a table? A. Nobody, that I know of.

Q. Was not anybody at a table? A. No, sir.

Q. Did not Clark sit at a table? A. No, sir; he did not. Not that I remember. The financial secretary may have sat at the table and took the dues.

Q. What was the name? A. O'Brien.

Q. What was his first name? A. Edward, I think it is.

Q. Do you know Sergeant O'Brien, now of the Seventieth precinct? A. Yes, sir.

Q. Was he there that night? A. Yes, sir.

Q. He was. Do you know when he was transferred to the Seventieth precinct? A. No, sir; I do not. That is another O'Brien, I guess, you are speaking about.

Mr. Clarke—I am talking about Sergeant O'Brien, at the Seventieth precinct.

The Witness—No; he was not the one. It was another.

Mr. Clarke—I am referring to Sergeant Edward—

The Chairman—Is Sergeant O'Brien present here in the room?

Mr. Clarke—Edward E. O'Brien is the one I mean.

Mr. Fallows—Sergeant O'Brien, will you go out of the room?

Sergeant O'Brien—No, sir.

Mr. Fallows—Then will you stop making signs to the witness?

Sergeant O'Brien—I ain't making no signs.

Q. Do you know that man? A. Yes, sir; he wants to signify the fact that he wasn't there.

Q. Do you know him? A. Yes, sir; I do.

Q. Is he the man that you said was present at the meeting?  
A. No.

Q. Why do you say he was? A. I didn't say so.

Mr. Clarke—Pardon me.

The Witness—I do not.

Q. I asked you if you knew Sergeant O'Brien of the Seventieth district? A. Yes, sir; I do.

Mr. Clarke—You said yes?

The Witness—Yes, sir; I know him.

Mr. Clarke—And you said he was at that meeting?

The Witness—No, sir; I did not.

Q. Is that your recollection? A. That is my firm recollection. I don't remember this sergeant being at any meeting.

Q. Was the fact that this sergeant from the back of the room made a signal to you, the reason that you now remember that he was not at the meeting? A. He wanted to let me know he was not there.

Q. Was the fact that he made a signal to you from the back part of the room the reason why? A. No, sir.

By Mr. Fallows:

Q. I happened to see that. Now, Sergeant Tims, how did it happen, when he wanted to let you know that he wasn't there, that he made this sign to you, shaking his head negatively? A. I didn't know that he was making the sign.

Q. Did you not see him? That is the only sign that he made. A. I don't know it. I don't know what it would mean.

Q. It would mean that he was not at that meeting? A. He was not at the meeting.

Mr. Fallows—You just said that he was at the meeting, and then he made the sign.

The Witness—That is another O'Brien.

Mr. Clarke—Oh, no.

The Witness—Oh, yes.

Mr. Moss—Shall it be entered upon the minutes that the sign that Assemblyman Fallows indicated was a sideways shaking of the head?

Mr. Fallows—Yes, sir.

Mr. Moss—The shake of the head usually indicating the negative?

Mr. Fallows—That is right.

Mr. Moss—And that Assemblyman Fallows says he saw the sign given?

Mr. Fallows—Correct.

The Witness—Gentlemen, the O'Brien that was there can easily be established, and you will find it is not that man at all.

By Mr. Clarke:

Q. Did I ask you that? I know there was another O'Brien there, and I know what he did and where he went and who he saw and everything about it. I have already used his name to you. A. Well, that was not the one.

Mr. Clarke—I did not say he was.

Mr. Fallows—You are a pretty smooth article.

Mr. Clarke—You are very, very smooth.

The Witness—Oh, no; I am a plain, unvarnished individual.

Q. You are what? A. I am unvarnished.

Mr. Moss—"A plain, unvarnished tale." He did not get the correct quotation.

Q. The sergeant nearly slipped his trolley on that quotation. The O'Brien you were referring to was the Sergeant O'Brien, whose name is Thomas E., Jr., who was at the central office, wasn't it? He was there? A. Yes, sir. I won't be sure about his first name.

Q. He never was in the Seventieth precinct—that O'Brien? A. I didn't know this man was in the Seventieth.

Mr. Clarke—I am asking you questions. Don't get impudent to me.

The Witness—I want to be fair.

Mr. Clarke—Be fair and answer the questions, and I will be fair to you and give you a chance to explain anything you want to explain. You shall have the chance to do it.

The Witness—Thank you. All right.

Mr. Clarke—We are before a solemn tribunal here, and we must proceed orderly.

The Witness—All right.

Q. I am informed that Flood sat at a table, and that all the sergeants saw him, went to him; he had a talk with them; did you see anything of that? A. No, sir; I did not.

Q. You say the financial secretary went to a table? A. Yes, sir; he sat by the table.

Q. Was any money collected by him there? A. Yes, sir.

Q. What was his name? A. O'Brien.

Q. Which O'Brien was that? A. I really don't know. This man from Brooklyn I only recently got acquainted with. I don't know his first name.

Q. Which one? The one that just—— A. Oh, no. I know him for years.

Q. Where is he located now? A. I heard to-day he was in the Seventieth precinct. I didn't know it.

Q. Where did you hear that? A. I heard it mentioned when the gentleman came to call him as a witness.

Q. You have known him for years? A. Yes, sir.

Q. How many? A. Many, many years.

Q. How many? A. Oh, probably fifteen.



Q. Where did you see him last, before he went to the Seventieth precinct? A. I don't remember.

Q. Did you see him in March? A. No, sir; I don't know that—I don't think I did.

Q. Did you see him in February? A. I don't remember.

Q. Did you not see him at that meeting that night? A. No, sir; I don't remember him at all.

Q. Did he not make any objections as to the amount of the levy? A. No, sir.

Q. Did he not refuse to come into the association? A. No, sir. I heard nothing of the kind.

Q. You never heard that he refused to come into the association? A. No, sir. I thought he was a member of the association.

Q. Were there not six more who refused to come in and pay that night? A. I heard no one refuse.

Q. Do you not know, as a fact, that they did not? A. No, sir; I do not.

Q. Do you not know? A. No, sir.

Q. There was no objection made by anybody to the association, or its purposes or objects, that night? Is that right?

The Witness—State that again, please.

Q. (Question repeated.) There was no objection made by anybody to the association, or its purposes or objects, that night? Is that right? A. No, sir. I heard no objection whatever.

Q. And you have heard none since? A. No, sir.

Q. You say you know Sergeant O'Brien of the Central Office, who was an officer? A. Yes, sir.

Q. Do you know that he went to the different precincts on business of the association? A. No, sir; I do not.

Q. Did you ever direct him to? A. No, sir, I did not.

Q. If any directions were given to the officers, who would give them? A. Well, I suppose I would.

Q. Have you ever called anybody's attention to the delinquents who have not paid up? A. No, sir; I have not.

Q. Have you ever made any provision to collect? A. No, sir.

Q. From anybody? A. No, sir.

Q. Do you keep books of account of your association? A. Yes, sir; keep a minute book; that is about all.

Q. Did you keep a bank book? A. The financial secretary keeps a book.

Q. Does he put his funds in bank? A. I could not say that.

Q. Do you know how much money he has collected? A. I could not say even that, to a certainty.

Q. And you do not know whether the rules of the association require the financial officer to put his money in bank and keep books of account? A. Yes, sir; it does.

Q. But you do not know whether that has been observed or not? Did you care anything about it? A. Yes, sir.

Q. Why did you not find out whether the officer was obeying the rules? A. I am going to.

Q. Let me know when you find out, what bank he banks it in, will you? A. Yes, sir; I will.

Q. Was there any discussion at that meeting or among the sergeants as to this pending legislation at Albany? A. No, sir.

Q. There was no concern about that at all? A. Yes, sir; I believe there was something said about the pension law; I believe something about that.

Q. Do you mean to say that when you sergeants all got together in the beginning of March, and when this legislation was pending at Albany, it was not discussed whether it was likely to pass or not?

The Witness—Which? The pension?

Mr. Clarke—No; the different police legislation—you knew that there was some police legislation pending there, did you not?

The Witness—Yes, sir.

Q. You knew it pretty seriously affected the force, did you not? A. No; they didn't take that view of it.

Q. Oh! Why is it they did not take that view of it? A. The feeling was that it didn't concern the rank and file.

Q. Was not the reason why they didn't take much interest in it because they did not think it would pass? A. No, I couldn't say that.

Q. That was not discussed as to whether that legislation could pass or not? A. No, sir.

Q. You never heard a word said as to whether or not the bills would pass the Senate? A. No, sir.

Q. In times past, the members of the force have been very much interested in police legislation at Albany, have they not? A. Yes, sir.

Q. Police legislation upsets the department more or less, does it not? A. That is right.

Q. You do not know what may happen when the legislature gets to work, do you? A. That is right.

Q. They may make a complete revolution? A. Yes, sir.

Q. You knew this year that it was proposed to change a four-headed bi-partisan board into a single-headed board, do you not? A. By the papers.

Q. By the papers? A. Yes, sir.

Q. You knew it as we know what is going on in the city? A. Certainly; yes, sir.

Q. You knew there was another scheme to make a state constabulary? A. Yes, sir.

Q. And take the control of affairs out of the city authorities? A. Yes, sir.

Q. Did you not suppose that if those bills, or either of them passed, it would affect the force to a very considerable extent? A. No.

Q. Do you know of any more radical legislation than has been proposed in recent years? A. Yes, sir; I do.

Q. Than the constabulary bill? A. I do.

Q. What bill? A. The reorganization bill.

Q. More radical than the State constabulary bill? A. Yes, sir; we deemed it so.

Q. Was that the reason that the patrolmen did not care anything about the legislation, that they did not think it would hurt them? A. I don't know anything about the patrolmen. I could not say.

Q. You are a sergeant in a precinct, with 100 patrolmen in your precinct, are you not? A. I will swear I never spoke to a patrolman about that matter at all.

Q. Never heard a patrolman speak about it? A. No, I did not. I will swear it.

By the Chairman:

Q. You just said a few minutes ago that it was not considered so by the rank and file—this legislation as very seriously affecting them? A. Yes, sir.

Q. What made you make that statement? What did you mean by that? A. What I mean, was, I heard no discussion about it.

Q. Why did you reach that conclusion? A. It was the sergeants I heard speak about it. I don't remember hearing patrolmen at all. I have not the slightest recollection of hearing it at all.

Q. Sergeants are not the rank and file, are they, as we ordinarily understand the term? A. Oh, well, they belong to the rank and file.

By Mr. Clarke:

Q. You are an officer? A. Yes, sir.

Q. You are next to a captain? A. Yes, sir.

Q. You are like a lieutenant in the army, are you not? A. Yes, sir.

Q. You do not call yourself, then, of the rank and file, like a patrolman, do you? A. Well, I don't exactly know the scope of that term, "rank and file."

Q. Do you know anything about that? (Showing paper to witness.) A. No, sir; I do not.

Q. How does it come in your pocket? A. I could not say. I don't remember.

Mr. Clarke—I am referring to Exhibit Z. This is addressed to "Sergeant Ganz, Sixty-fourth precinct, Brooklyn, N. Y.," and bears the State of New York, Assembly chamber seal upon the corner of the envelope, and two postage stamps.

Q. You do not know how that came into your pocket? A. No, sir; I do not. I will try and think the matter over.

Q. Will you not oblige—— A. I don't remember, I really could not remember.

Q. Will you oblige me by attempting now? A. I could not.

Q. (continuing.) To give me an explanation? A. I could not remember.

Q. (continuing.) Why, in Sergeant Oliver Tims' pocket, of the borough of Manhattan, president of the Sergeants' Association, should be found a letter from the Assembly chamber, addressed to Sergeant Ganz of the Sixty-fourth precinct, Brooklyn? A. I don't remember how it came.

Q. You can give no explanation? A. No, sir; I cannot. I was a little surprised to see it, now. I don't know how it came there.



By the Chairman:

Q. Is that name "Edward Ganz" there in pencil, written by you?

Mr. Clarke—Down at the botton.

A. Yes, sir—no—yes, sir; I guess I wrote that.

By the Chairman:

Q. Is that Sergeant Ganz of the Sixty-fourth precinct? A. Yes, sir.

Q. What office does he hold in this association? A. He is vice-president.

By Mr. Clarke:

Q. In whose handwriting is that at the top there in pencil, "Charles M." something? Griggan? A. These are private memoranda, and has no reference to the matters at all.

The Chairman—Do not mark that out with your thumb.

The Witness—They are purely private.

By Mr. Fallows:

Q. That you have made? A. Yes, sir.

Q. In your handwriting? A. Yes, sir; they are purely private.

By Mr. Clarke:

Q. What does it mean? A. I don't know. They are in regard to certain individuals, some friends.

By the Chairman:

Q. Edward Ganz is the same Sergeant Ganz to whom the envelope is addressed, is he not? A. Yes, sir. They are private memoranda.

Mr. Clarke—What do they mean?

Q. What is this memorandum "81 Jayne street," and "Pull the bell twice?" What does that refer to? A. I could not tell you.

By Mr. Fallows:

Q. You say it is a private memorandum. Who made it? A. It is a private memorandum. I just scribbled it down for some—I could not remember.

By Mr. Clarke:

Q. You have not the slightest idea what it refers to? A. No, sir.

Q. I ask you, "Charles M. Griggan"—is that Griggan? A. Yes, sir.

Q. Is that a friend of yours? A. Yes, sir.

Q. Is he in the police force? A. No, sir; he is not. He is a citizen. He is in the produce business.

Q. What is his name written on a letter addressed to Ganz for? A. I can't remember what I put that on there for.

Q. But you did put it on yourself? A. Yes, sir.

By Mr. Fallows:

Q. Is that where he lives, 807 Halsey street, Brooklyn? A. Yes, sir.

Q. When did you put it there? A. Oh, within a couple of weeks or so.

Q. Then you have had this in your possession a couple of weeks, have you not? A. Yes, sir.

By Mr. Clarke:

Q. Who gave it to you? A. I don't remember how I got it. I don't remember.

By Mr. Fallows:

Q. What did it contain when you received it? A. I don't think it contained anything.

Q. Are you sure it did not contain anything? A. No, sir; I am not sure. I forget now whether it contained anything or not.

Q. Did Sergeant Ganz hand it to you? A. He may have.

By Mr. Clarke:

Q. You think it was an empty envelope? A. Yes, sir.

Q. When it came into your possession? A. Yes, sir; I think so.

Q. And you have not the faintest idea how you got it? A. Yes, sir; I suppose that he has given it to me; Sergeant Ganz has given it to me, I suppose.

Q. What for? A. I could not say. With something else inside of it, I presume.

Q. You are beginning to recollect something about it, are you not, now? Do you not think we are entitled to an explanation about it? A. Well, I don't remember.

By Mr. Fallows:

Q. Wasn't there a letter inside? It is an envelope. A. No, sir; I don't think there was any letter inside. I very frequently get envelopes, the same as this one here, and others, in my pocket; I don't know sometimes how I get them.

By Mr. Clarke:

Q. Oh, we have heard. Do you mean the police envelope that we have heard about, that is found and nobody knows where it comes from? A. No, sir.

Q. Is that the one you mean? A. No, sir.

Q. That sounded as if you knew all about it. You said you often got envelopes, without knowing where they came from. A. That is, after they have remained in my pocket for a while. I don't remember the circumstances.

By Mr. Fallows:

Q. May I ask a question or two? I do not want to ask anything more about any papers you may have about your pockets, but I want to ask you if you have any other paper in your pocket? A. No, sir.

Q. These are all the papers you have? A. This. (Showing a subpoena, which had been returned to him.)

Q. Will you explain to me how it happened, after I had first handed you those papers, and you took them back again and said you were willing to give them up, that you held one hand down

there with this envelope, and held the others up and not the envelope? A. I don't remember.

Q. You do not remember putting them down there and my having to ask you for them separately? A. I don't remember.

Q. You will not swear it did not contain a letter when you received it? A. No, I will not.

Q. Then it may have contained a letter? A. Yes, sir.

Q. What became of the paper or letter that was in there when you received it from Sergeant Ganz? A. I could not say.

Q. Have you it somewhere in your possession? A. No, sir, I have not.

Q. How do you know you have not? A. I know I have not, because I gave all the papers I have got, except this subpoena. That is all I have got.

By the Chairman:

Q. Do you know where that letter came from? A. No, sir, I do not.

Q. Do you know the handwriting? A. No, I do not.

Q. Did not Sergeant Ganz tell you where it came from? A. No, sir, he did not.

By Mr. Fallows:

Q. Would you have any reason for not telling us if you did know? A. No.

Q. Have you looked carefully at the handwriting to see that you never saw it before? A. Yes, sir, I have. I don't know the handwriting.

By Mr. Clarke:

Q. Your old Municipal Sergeants' Association died when? A. Well, it died probably two months ago, when this other one was organized.

Q. Oh! Then it was in existence up to the time that this was organized? A. Yes, sir.

Q. Why did you not continue that? A. Well, because it was necessary to incorporate with us the sergeants of Greater New York.



Q. You are not an incorporated association, are you? A. No, sir.

Q. You were president of the old association, were you not? A. Yes, sir.

Q. What difficulty was there in just going on with that one? A. No difficulty at all.

Q. But you thought—— A. Only simply that it was desirable that there should be a uniformity.

Q. And therefore in the end of February and the 1st of March, you let an association which had been in existence for a long time die, and formed a new one? A. Yes, sir.

Q. At the same time that the captains formed theirs, which you heard about? A. Yes, sir, the newspapers. That is all I heard about it.

The Chairman—Do I understand the old association was incorporated?

Mr. Clarke—No, neither of the associations was incorporated.

The Witness—No. We did at one time contemplate having it incorporated.

Q. And according to your knowledge, the purposes and objects of the two associations are identical, are they? A. Yes, sir.

By the Chairman:

Q. Let me understand this. Here is an organization for benevolent purposes, and it is not incorporated? A. Yes, sir.

Q. And you have a treasurer? A. Yes, sir.

Q. And he is under bonds? A. Yes, sir, he is under bonds, I believe.

Q. What bonds is he under? A. I could not say now exactly.

Q. Do you think that is a businesslike way of carrying on an organization? A. It may not be. We find it to work, and we find it to serve our purposes.

Q. That is what we think; it serves your purposes; and there was no necessity for incorporating this, was there? A. No. Probably we would later on. We had articles drawn up of incorporation at one time, but it fell through.

The Chairman—I am speaking of this present organization that has been organized.

Q. You say that you never heard of Sergeant O'Brien—that is Thomas E. O'Brien, Jr.,—of the Central office, going around to the different precincts in regard to the matter we have been talking about? A. No, sir.

Q. You never heard of that? A. Never heard of it.

Q. Did you ever hear him say or ever hear anybody say that it was better to pay than to be transferred? A. Never.

Q. You never heard that expression? A. No, sir.

Q. Never heard it yourself? A. No, sir.

Q. Do you think it was better to pay than to be transferred? A. I don't fully understand.

Q. Did you pay \$25 into this fund? A. I did not.

Q. Did you pay any amount into the fund? A. I did.

Q. How much? A. A dollar.

Q. Is that all? A. That is all.

Q. Is that all anyone paid? A. That is all I know of.

Q. To your certain, definite, distinct knowledge? A. That is all I know of.

Q. You say that, under the solemnity of—— A. I do, sir.

Q. And that the sole business that was transacted at the meeting, either before or after its formal adjournment, was in regard to the benevolent and endowment features of the association? A. Yes, sir, that is right.

Q. And you did not care, and do not care, or you do not care and the association did not care, whether or not police legislation at Albany progressed or stopped? Is that right? A. Well, we didn't want our pension law interfered with. That is about all.

Q. Was there anything pending that would interfere with your pension law? A. Yes.

Q. What was that? A. There was a measure we read of in the papers that had been brought up.

Q. What was that? A. I don't know what its provisions were, exactly. Oh, I will tell you.

Mr. Clarke—Yes, you do.

The Witness—They had a pension law to make it uniform.

Q. To make it uniform? A. Yes, sir.

Q. What do you mean by that? A. To make the pension uniform.

Q. Well, what do you mean by that? A. To give each so much; have all receive the same, whether they were captains, sergeants, patrolmen, roundsmen, or whatever they were.

Q. There was such a bill as that pending? A. Yes, sir.

Q. Was it about that that this assemblyman wrote to you or wrote to some one who read the letter in the meeting? A. I don't remember any letter being read. There was somebody speaking about the pension bill, I believe at present, but there was some inquiry made about it, and somebody said that they didn't think it would amount to anything, and let it go.

Q. Was not that said in the letter which I have asked you about? A. No, sir.

Q. Do you still stick to it that no letter was read? A. No, sir, I don't remember.

Q. You say that you and the association were interested in the pending bill in regard to pensions? A. Yes, sir.

Q. Did you do anything about that? A. No, sir, we did not. Yes, sir, I believe there was some inquiry made from some assemblyman in regard to it, and somebody said that that was the end of it. It would not be heard of any more. Some maintained there was no such bill at all.

Q. Do you know the chief? A. I do.

Q. Are you in the habit of seeing him? A. No, sir.

Q. Did you see him in February or in early March in regard to your association? A. No, sir, I did not.

Q. Was there no suggestion made to you from a higher officer that you should form such an association? A. No, sir.

Q. Nothing at all? A. No, sir.

Q. Was it conveyed to you that the department ought to be a unit? A. No, sir. I haven't any——

Q. And stand together? A. I have no recollection of that.

Q. And so far as you were concerned, you never heard that there was such a suggestion going around? A. No, sir.

Q. That the department should be a unit? A. No, sir

Q. And stand together against what might occur outside? A. No, sir.

Q. And that patrolmen ought not to kick at a slight expense?

A. No, sir.

Q. That everybody should be united together for mutual support? A. No, sir.

Q. Never heard anything of that kind? A. No, sir. Oh, it might have been broached. That has been talked of for a great many years; but I have not heard it spoken about recently at all. That is, from time to time that has all been spoken about; advocated, and some favored it and others rejected it, and some claimed it was not practicable, and others saying it was not necessary, and so on.

Q. What do you mean by "it" when you say some advocated it? A. The scheme to form a general association.

Q. For what purpose? A. For any purpose. You asked me if——

Q. And you began to talk about a vague "it," and you said some advocated it and some did not believe in it, and some said it would cost too much, and so on? A. You were speaking about the scheme.

Q. What was the "it" you were speaking about? A. The scheme.

Q. What scheme? A. The scheme of forming a general organization.

Q. For what? A. For mutual protection.

Q. Against what? A. Anything, everything.

Q. Is that what the sergeants' association was formed for—for mutual protection against anything? A. No.

Q. You are quite sure of that? A. Yes, sir.

Q. It was not protection, it was endowment? A. Endowment.

THOMAS F. GILHOOLY, being duly sworn, testified as follows:

Examined by Mr. Clarke:

I am stationed at police headquarters, 300 Mulberry street. In Inspector Thompson's office. I have been in the department nine years past. I know Sergeant Humphrey, sergeant in Brooklyn. First met him the early part of last year. I have not seen much



of him. I belong to the Roundsmen's Association. It was formed previous to my being a roundsman. I don't know when. I became a roundsman on March 10, 1896. Before that I belonged to the Patrolmen's Association. And upon promotion or upon assignment to duty as a roundsman I joined that association. There was an existing association at that time that has continued to the present time, without change. Each grade in the service has an association. I attended. The regular monthly meeting was the 8th of February. Quinn is the president of the Roundsmen's Association, of Flushing.

Q. I am not referring to the meeting at which he was present, but another one. Do you remember that? A. Yes, sir, there was a special election or special meeting, in February, at Mannerchor hall. I presided at one meeting.

JOHN F. FLOOD, being duly sworn, testified as follows:

Examined by Mr. Clarke:

Q. What have you been doing for the last three hours? A. I have been waiting to be called, Mr. Counselor.

Q. You have been out in the hall? A. Yes, sir.

Q. You have talked to every witness that went off the stand? A. Not every witness.

Q. Almost every witness? A. Only one.

Q. Who? A. Sergeant O'Brien.

Q. Which Sergeant O'Brien? A. Sergeant Edward O'Brien.

Q. From the Seventieth precinct? A. From the Seventieth precinct.

Q. What did you talk to him about? A. Nothing special. I asked him how he got along.

Q. Did you not ask him what had occurred in here, and what he had been testifying to? A. No, sir.

Q. Is he the only officer you talked with? A. The only officer who testified. I have talked with other officers, a dozen of them.

Q. Have you not, as a matter of fact, talked with almost every officer that came off the stand? A. I have not. I have had no interest whatever in the proceedings that took place here, and I

got away from some so that I would not have occasion to talk to them about it. That is my position.

Q. Is that actually so? A. That is the truth.

By the Chairman:

Q. What conversation took place between you and Sergeant O'Brien? A. Nothing excepting I said, "How did you get along?" He said, "Very well."

Q. Was the question discussed of his having been present at a meeting? A. No, sir; he said nothing to me about any meeting.

By Mr. Clarke:

Q. Did you say anything to him? A. No, sir; I said nothing to him.

Q. Did you ask him what questions had been asked? A. No, sir; I did not.

Q. Or what lines he had been interrogated on? A. No, sir; I did not. I had no interest whatever.

Q. What interest had you in finding out what Sergeant O'Brien testified to? A. Why, just the interest that anybody would naturally have in the proceeding of a body.

Q. Then why did you not speak to the other officers? A. Because I didn't have interest enough.

Q. You had the particular interest to talk to Sergeant Edward O'Brien, who had been transferred to the Seventieth precinct three days after the meeting of the sergeants; you had interest enough to talk to him, but to none of the other officers who came off the stand? A. It was not a particular interest, that I talked to him.

Q. I understood you to say that it was a particular interest you had in talking to him? A. If I said so, I withdraw that. I say now I had no particular interest to speak to him at all. I would not have asked him the question if he hadn't first come up to me.

Mr. Clarke—You said you asked him?

The Witness—Well, I spoke to him.

Mr. Clarke—And the reason you talked to him was because you had an interest in what he said?

The Witness—Of course I had an interest.

Q. What was the interest you had in what Sergeant O'Brien told you? A. I told you it was the interest that two policemen would naturally have in the proceedings of a body of this kind.

Q. Then why did you not have an interest in the other? A. I had an interest in them, too.

Q. But it was of so slight a nature that you did not speak anything about it? A. No.

Q. But with O'Brien, who had been sent to the Seventieth precinct, you did have an interest which led you to speak? A. Nothing——

Q. Is it so? A. It is not so.

THOMAS F. GILHOOLY, being recalled and further examined, testified as follows:

Examined by Mr. Clarke:

I presided at a meeting. I appointed a committee.

Q. Consisting of yourself and Hunt, of the Ninth, and Powers, of the Seventy-fifth, and Walsh, of the Thirty-fifth, and Walsh, of the Eighteenth? A. No, sir.

Q. What mistake have I made? A. Walsh of the Eighteenth—I don't think.

Q. The others you recognize? A. Yes, sir; excepting myself. I was not on the committee. I went with the committee, to the chief's office. It was suggested that we look for an increase of salary, and it is always best to converse with the chief about that first.

Q. How much did you want your salary increased to? A. There was no particular stated figure.

Q. Oh, yes; \$1,750, was it not? A. That was suggested; yes, sir.

Q. That is what your committee went down to speak about first? A. Yes, sir.

Q. You said first. What was it second? You said that was what you spoke about with the chief first. What was the second? A. I said we had better see the chief first, before we took any action on it.

Q. To get his permission to have a bill introduced in Albany to increase your salaries? And was that what the committee was appointed for? A. To see what he thought of it; yes, sir.

Q. What did he tell you? A. He told us no.

Q. No what? A. That it would not be an advisable thing just now.

Q. What else did he tell you? A. That the mayor would not sanction any bill like that, and he thought it was best not to push it this year.

Q. I understand you to say that he based his opposition upon the ground that the mayor would not sanction any such bill? A. Yes, sir.

Q. Is that what he said to your committee? A. Something like that; yes, sir.

Q. No, did he say that? Did he tell your committee at that time, as a reason for not permitting you to have such a bill introduced, that the mayor would not sanction it? A. That the mayor——

Q. No, I ask you whether he told you that at that time—your committee? A. In his remarks; yes, sir.

Q. At that time? A. Yes, sir.

Q. That the reason for opposing your going to Albany for a bill increasing your salary, was that the mayor would not approve it? Do you recollect that as a matter of recollection? A. Yes, sir.

Q. What else did he say? A. That is all I remember directly.

Q. Was that all that was talked about with your committee and the chief? A. Yes, sir.

Q. Eh? A. Yes, sir.

Q. When was this, Roundsman—this call upon the chief? A. A day or two after that meeting.

Mr. Clarke—We have not got that date fixed yet.

The Witness—That I don't know. I don't know the date about that at all.



Q. Was it in February or March? A. I could not remember that at all.

Q. It must have been either in February or March, was it not? A. Somewhere along through there; yes, sir.

Q. There is no doubt about that, is there? A. Somewhere along through February or March.

Q. At that time you knew that certain bills were pending in Albany regarding the police force, did you not? A. Knew of a bill that was suggested, or something like that; yes, sir.

Q. You knew there were bills there in regard to the reorganization of the force, changing the bi-partisan four-headed commission into a single headed commission, did you not? A. Yes, sir.

Q. Did you have any talk about those bills with the chief? A. I don't remember that now.

Q. You do not remember? A. No.

Q. But you certainly think it would have been likely when a committee of roundsmen went to talk to the chief about legislation, that some reference might have been made to pending legislation, might there not? A. There was none made then.

Q. Are you positive about that? A. I don't recollect its being recalled at all.

Q. You say then. At any other time did you talk with the chief about pending legislation? A. No, sir.

Q. Never a word passed between you? A. No, sir.

Q. Or your committee? A. No, sir.

Q. Never made any reference whatever to pending legislation? A. No, sir.

Q. You did not care anything about pending legislation, did you? A. It didn't affect us any.

Q. It might affect the present organization very seriously, might it not—the chief? A. Oh, I guess it would.

Q. You think it would? A. Yes, sir.

Q. And yet you do not think that he said anything about it to a representative committee of a large body of officers, to wit, the roundsmen? A. No, sir.

Q. When you went to him about having a bill introduced to raise your salaries? A. No, sir.

Q. Never a word about the pending legislation? A. No, sir.

Q. Roundsman, did not the chief tell you to raise fifteen dollars apiece, to defeat the bill in Albany? A. No, sir.

Q. And did he not say that your positions would be made permanent? A. No, sir.

Q. A roundsman's position is not a permanent position, is it? It is an assignment, is it not? A. It is an assignment at present. At present, under the charter, it is not construed as a permanent position.

Q. That is, new appointments to roundsmen you think should be construed as permanent positions? A. Yes, sir.

Q. But the old assignments—have they been made permanent positions? A. That is still a question.

Q. Has not that been a question that has been discussed inside the department, whether or not a roundsman is a permanent grade or a mere assignment?

The Witness—Among the men?

Mr. Clarke—Yes.

A. Yes, sir. It is naturally a matter of very considerable importance to roundsmen, whether they have a grade or not. The reason being that if it is a mere assignment, they can be sent back on post at any time by the chief; whereas, if it is a grade, they cannot be reduced in pay. I mean to say that in talking to the chief about legislation, nothing was said to him about making our grade permanent; never heard a word of that kind. I never heard a word about the roundsmen raising any money to prevent the legislation from being passed, which was then pending. I did not collect some of it myself; not a dollar.

Q. Did not you and that man from Brooklyn, who was in the license office—Murphy is his name, the one you were speaking about a while ago as knowing—do you remember his name?

The Chairman—Humphrey.

Q. (continuing) Humphrey, of the license bureau. Have not you two collected money? A. No, sir.

Q. Within the last spring? A. No, sir.

Q. Not a dollar? A. Not a dollar.

Q. For any purpose? A. No, sir.

Q. How much was the assessment of the sergeants, do you know? A. No, sir.

Q. How much was it of the roundsmen? A. I know of no assessment of the roundsmen.

Q. You know of no assessment whatever? A. No, sir.

The Chairman—Did you say yes or no?

Mr. Clarke—He says he knows of none.

The Witness—None.

Q. And the roundsmen—you know what an assessment is, do you? A. Yes, sir.

Q. What is an assessment? A. In an association, it is money levied to meet expenses, or something like that.

Q. Leaving the question of assessment aside, was there not a question of roundsmen paying fifteen dollars apiece for some purpose? A. I was never asked for it.

Q. Did you ever ask anybody for it? A. No, sir.

Q. Never? A. No, sir; never.

Q. You never heard of its being asked for? A. Only what I saw in the paper.

Q. Oh; you saw it in the paper? A. Yes, sir.

Q. Did not that strike you as rather an extraordinary thing to be in the paper? A. It was rumored; that was all.

Q. Did you think it was a usual thing to have such rumors about your associations or your grade? A. No.

Q. Did it make any impression upon you? A. No.

Q. When did you see it in the papers? A. Some of the daily papers; I don't know of any particular ones.

Q. Was it shortly after your meeting that you called?

The Witness—I called?

Mr. Clarke—You said that you called and presided at a meeting.

A. I didn't call a meeting.

Q. You presided? A. Yes, sir.

Q. Who called it? A. That I don't know.

Q. How did it come to be called? A. That I don't know. The president called it.

Q. Were you not directed to call it? A. No, sir.

Q. Quinn was not in it? He was in Flushing? A. No, sir.

Q. You do not know how it came to be called? A. No, sir.

Q. Yet you presided at it? A. Yes, sir.

Q. How did you come to preside? Are you an officer? A. No, sir.

Q. How did you come to preside? Are you an officer? A. It seems the president didn't get there.

Q. Was there not a vice-president? A. No officers at all.

Q. In the absence of the president, you were elected chairman?  
A. By the people present.

Q. Did you state to the people what the object of the meeting was? A. Yes, sir.

Q. How did you know what the object of the meeting was? A. Because I was told about it.

Q. Who told you? A. Somebody in the building.

Q. When? A. That day; at the meeting.

Q. Then you must know who called it? A. That I don't know.

Q. How could a meeting be held? It had to be called by some one, did it not? A. Yes, sir.

Q. You say that the first notice you had of the object of the meeting was by somebody telling you there, when you got there?  
A. Oh, no. In the building.

Q. What building? A. Police headquarters.

Q. Was the meeting held at police headquarters? A. No, sir.

Q. Oh, then, before you left police headquarters to go to Manerchor hall, you knew what the meeting was for, did you? A. Yes, sir.

Q. Do you mean to say it was a called meeting of the association, and none of its officers present? A. That is the way it happened to be.

Q. But before you got up there you knew what the meeting was for? Well, what was it for? A. I believe they had a fund—a counsel fund.

Q. A counsel fund? A. Yes, sir.

Q. When had they had that? A. That had been standing since the charter took effect.

Q. How much was there in that fund? A. Well, I don't know.



Q. Go on. What was going to be done with this counsel fund?

A. Some of the men wanted it back, and wrote to see if it could be returned; and it was returned.

Q. How much was returned to each one? A. What he put in.

Q. How much did he put in? A. Five dollars.

Q. How old was that counsel fund? A. Since the early part of last year.

Q. What was it made for? A. To use in case the roundsmen were reduced; to hire counsel to see that they had their rights, because they were entitled to a permanent position.

Q. It was a fund to procure legal aid in maintaining their grade as a regular rank? Is that it? A. If the question came up; yes, sir.

Q. You say each roundsman had contributed to it? A. Yes, sir.

Q. Had anything been paid out of it? A. No.

Q. No lawyer had been retained? A. No, sir.

Q. Why did you not give it back to all the members? A. All got it that came after it.

Q. And you do not know who called the meeting for that purpose? A. That I don't know.

Q. So that this was a meeting to get back money and not to put it in? Is that it? A. Yes, sir.

Q. Who held the counsel fund? A. It was one of the old officers. I don't know anything about it.

Q. What is his name? A. I don't know.

Q. You must know. You presided at the meeting, and went down with this committee that was formed for some purpose. Do you not see you did other business than to give back the money? A. That was the primary call for the meeting, so that—

By the Chairman:

Q. Where is the money now that was not returned to those who did not call for it? A. Some of the roundsmen have it. Some roundsman has got it.

Q. You say it was returned to those who came there and called for it? A. Yes, sir.

Q. What has become of those that paid in and have not called for it? A. I guess one of the officers of the association has it yet.

By Mr. Clarke:

Q. Who has it? A. I think it is Roundsman Holmes, of Brooklyn.

Q. What precinct? Simply for the purpose of identification?  
A. It is the Astoria precinct. I don't remember the number.

By the Chairman:

Q. Was he there that night? A. I don't know him. I don't know.

By Mr. Clarke:

Q. How many were present? A. Only about forty.

Q. How many roundsmen are there? A. Three hundred and some odd.

Q. And about forty present? A. Yes, sir.

Q. The primary object of the meeting being to get back a counsel fund that they had already contributed to? A. Yes, sir.

Q. A meeting called by somebody, you do not know whom?  
A. Yes, sir.

Q. And none of the regular officers of the association being present, and you elected chairman pro tem? A. Yes, sir.

Q. That is straight, is it? A. Yes, sir.

Q. How much was paid back that night? A. None.

Q. When was it paid back? A. The next meeting after that.

Q. Oh; how long after was that? A. A week or ten days.

Q. Did you get yours back? A. No, sir.

Q. You did not think that a counsel fund at that time ought to be reduced, did you? A. I didn't have any up.

Q. You had never put any in? A. No, sir.

By the Chairman:

Q. Why should you go to the meeting, then, if it was called for that purpose, if you were not interested and had no money up? A. It was a regular roundsman's meeting, and it was a call for a meeting.

Q. You say you did not have any money up. What interest did you have, to preside at any meeting where money was returned?  
A. I just happened to be there and was elected chairman.

Q. You did not happen to be there. You were told beforehand what the purpose of the meeting was? A. Yes, sir.

Q. Who asked you to go there? A. That I don't know. Some of the roundsmen of the building said, "Go to the meeting."

By Mr. Wilson:

Q. The regular meeting was ten days, or a few days after, and each man had \$5 up. What was the object of having a special meeting, when you could not get it back at that meeting? A. It was voted.

Q. Why could you not do it at a later meeting? What do you say? A. I don't know.

Q. You do not know? A. No, sir, I did not, really.

By Mr. Clarke:

Q. Do you know Conboy? A. Yes, sir.

Q. Where is he? A. Outside.

Q. What precinct? A. He is in Brooklyn; in the inspector's office.

Q. He is on Inspector Campbell's staff? A. Yes, sir.

Q. He is a roundsman, too? A. Yes, sir.

Q. Did you ever receive any money from Conboy? A. No, sir.

Q. Large or small? A. Large or small.

Q. Was he not the collector in Brooklyn? A. I don't know.

Q. Did he not collect it in the inspector's office in Brooklyn, and turn it over to you? A. No, sir; turned no money over to me.

Q. He turned no money over to you? A. No, sir.

Q. Did you ever hear that sergeants were expected to pay \$25? A. No, sir.

Q. You never heard a word about that? A. No, sir.

Q. And captains \$500? A. No, sir.

Q. And roundsmen, \$15? A. No, sir.

Q. And patrolmen \$10; and they kicked and said they would not pay anything, because the bills didn't affect them? Did you ever hear anything of that? A. No, sir.

Q. You never heard any discussion through the department about these bills at Albany, and any united action taken by the force? A. No, sir.

Q. You never heard this phrase about there being a "unit," and "standing together," at this time, did you? A. I don't remember of it.

Q. You have heard of the phrase, have you not—about the police department being "a unit?" A. No, I don't remember.

Q. That is a familiar phrase in the department, is it not? A. No.

Q. It means "standing together" against all outside attacks of every kind, does it not? A. If that is the way it is applied, yes, sir.

Q. It means standing together inside upon trials, does it not? (No answer.)

Q. It means the uniform against the world, does it not? (No answer.)

Q. It means that the interest of one is the interest of all against all outside attack, does it not? Now, does it not? A. If such was the case, yes, sir.

Q. Is it not well understood that that is the theory of the force, to stand together for protection? A. Stand together for their own ends.

Q. Yes, whether on trial or against removal? That is the doctrine of the force, is it not? A. No, sir, I don't know that.

Q. Did you ever know of a policeman on a police trial swearing against another officer of the same grade? A. I never had any particular case of it.

Q. You never heard of it? A. I never heard of any particular case, myself.

Q. You never heard of such a thing in all your years in the department? It is a unit, is it not—standing together for self-protection against the world, is it not? A. Naturally.

Q. Is not that the theory of the department? Is not that the thing that knits it together, and prevents the getting anyone broke? A. I don't know.

Q. You do not know? A. No, sir.

Q. Oh, roundsman; oh, roundsman; you do know what that means, do you not? You know well that no man in one grade will testify against another man in the same grade, do you not? A. No, sir.

Q. You do not know it? A. No, sir.

The committee then adjourned to May 9, 1899, the place and hour to be fixed hereafter.



TUESDAY, *May* 16, 1899.

Committee met pursuant to adjournment.

Present: Mr. Mazet, chairman; Mr. Costello, Mr. Hoffman, Mr. Wilson and Mr. Boland, of the committee.

BENJAMIN HARRISON, called as a witness, being duly sworn, and examined by Mr. Moss, testified as follows:

I belong to the Sixteenth precinct, Captain Chapman's. I believe I was on duty on the 4th of May, in the evening, at 12.50 a. m. I am not aware that I had trouble with a place called the Empire saloon, on East Twelfth street. I did not arrest anybody there that night; I wasn't trying to find someone in there; I didn't go in there. I was not in the Empire saloon. I don't know where the Empire is located. My beat is on Broadway, from Fourteenth to Twelfth. I don't know any Empire saloon on Twelfth street near Broadway, or summer garden.

Q. Don't you know of any summer garden in that neighborhood? A. It might have been named Empire. I really can't say what the name of it is.

Q. Isn't there a garden on Twelfth street near Broadway called the Empire garden? A. Not that I know of. The regular officer on that beat at night is named Balco.

GEORGE R. CAIN, called as a witness, being duly sworn, and examined by Mr. Moss, testified as follows:

I was not on duty May 4th at 12.50 or 1 o'clock in the morning.

Q. What were you doing in the Empire Garden on Twelfth street? A. Empire Garden?

Q. Yes. A. I never was in the place.

Q. Never was in it? A. No, sir.

Q. Where is it? A. I know where the place is; it is on Twelfth street.

Q. Near Broadway? A. Between Broadway and Fourth avenue.

Q. An officer patrolling on Broadway past Twelfth street should know that saloon, shouldn't he? A. He should; yes.

Q. It is the resort of disorderly people at some times, isn't it?  
A. Not as I know of.

Q. Have you ever heard of it? A. No, sir.

Q. You say you never was in it? A. Never was in it.

CHARLES DILLON, called as a witness, being duly sworn, and examined by Mr. Moss, testified as follows:

I was in the Empire saloon of the Empire Garden on Twelfth street near Broadway on the 4th of May, between the hours of 12 and 1. Music and voices of women attracted my attention to that place. I heard that on the street. I entered the barroom and stood by the bar; we could see the rear room in which they were dancing; there was a woman whose clothes were very much above her knee, and in the corner there were two officers. I saw two officers, they are in this room, standing there (pointing), Officer Harrison and Officer Cain. The place is on the north side of Twelfth street, between Fourth avenue and Broadway. At that particular moment when we entered one officer had a pipe in his mouth. A little later one of the officers was dancing with the women, or a woman, in the place.

By Chairman Mazet:

Q. In uniform? A. Yes, sir; he took his hat and coat off a little later; one of the officers did; not both, but one of them.

By Mr. Moss:

The officers were in the saloon in uniform, in the back room of the saloon, which is connected by a swing door. They were in uniform when I entered the room, both of them. When the dancing took place, one of the officers removed his hat and coat. That officer was Officer Cain. The conduct of the women in that place was not the conduct of respectable women, decidedly not. Both I and the man with me were solicited. One of the women dancing first came to us and asked if we would treat her to a drink. Then she requested us to treat the piano player. The character of the dancing done by this woman and the officers was very suggestive; what they call "rag time" I think; or an attempt at it.

Q. Do you know anything about the character and reputation of the Empire? A. The character merely by visiting the place two or three times since then in company with a man; we have been solicited repeatedly. It is, from my observation, a resort for immoral women and for solicitation of such persons. There can be no mistake about my identification of these officers as being present and participating in the ceremonies.

Q. Was anything done by one of these officers with his club? A. That I didn't see. The piano player informed us he had been struck by the officer.

Q. Was the club used in dancing? A. It was placed on the floor, and one of the women gave an imitation of a sword dance over the club. I remained there probably an hour; until after the officers had left, after 1 o'clock. Liquor was sold in the saloon after 1 o'clock, in the back room. The officers were there until 2 or 3 minutes after 1. The front door, the street door, was closed at 1 o'clock. There is an alleyway that leads to the rear entrance; while the bar was on the door there was a man there who admitted people. Mr. Hammond was present when I saw these people; the first occasion. I visited there on another occasion. The time I saw these officers Mr. Hammond was with me.

By Mr. O'Sullivan:

I am not a police officer. It happened that I was there that night. We were going through the street. We were simply looking over the character of the neighborhood for Mr. Moss.

ROBERT A. VAN WYCK, called as a witness, being duly sworn, and examined by Mr. Moss, testified as follows:

Q. Mr. Mayor, I want to ask you whether you think the office of borough president serves any particular good use in the city government? A. I have not come to a conclusion with reference to that yet; I do not think the charter should be disturbed until it has a fair trial.

Q. But it is a matter of doubt and inquiry at the present time? A. I did not say so.

Q. Do you say so? A. I do not.

Q. Is it a matter that you are inquiring into and examining with some care? A. Not particularly.

Q. Has your attention been called to that office with reference to its usefulness or lack of usefulness? A. My attention in a general way is attracted to all the offices and officers.

Q. I might ask you the same question with reference to the two bodies in the municipal assembly; the board of aldermen and the board of councilmen. Do you believe, from your experience from this double body, that it is a wise thing to retain them under the charter? A. I do not think it should be disturbed until it has been given a fair trial.

Q. Is that also under advisement? A. That is not under advisement nor is the other.

Q. Do you think it may be a useful feature? A. Well, I am here to testify to facts, not my opinion.

Q. We are asking your opinion, as the first mayor of this great city, operating under a charter which is somewhat of an experiment; we suppose you know more of it than anyone else? A. I think we have got along wonderfully well under the circumstances.

Q. Has your attention been directed to the board of municipal statistics? A. Of course.

Q. To the department of municipal statistics? A. Yes, all boards.

Q. Particularly? A. Not particularly, no.

Q. Have you an opinion whether that board is serving any useful purpose? A. I have not.

Q. Have you come across its work in any way; have you seen any evidence of its work? A. I think they made a report to me; I cannot remember all these things, you know.

Q. The purpose of that board appears to be from the charter to receive the reports of the various officers and boards in the city departments and exercise some sort of oversight of them and make reports concerning the operations of those departments; have you received such reports as that? A. You will have to read the charter to see what the object of the board is.

Q. Do you agree with me in my statement? A. You will have to read the section of the charter to me; if you will read it I will tell you what I think of it.



Q. You have no independent thought without having your attention drawn to the charter provisions? A. That is correct.

Q. Did you notice the complaint made by Mr. Ernest Harvier, one of these commissioners, in which he said the departments were not reporting to them and therefore his department could not be of any use? A. I do not know that they are compelled to report to him.

Chairman Mazet—Will you permit me to ask the witness a question?

Mr. Moss—Certainly.

By Mr. Mazet:

Q. Mr. Mayor, there was some discussion last winter in regard to the offices of the borough presidents, and some suggestions were made that their field of usefulness might be widened, and a bill was introduced by me making the borough presidents members of the board of estimate and apportionment, and also making them members of the borough boards of education. I don't know whether you saw the bill or whether you have any views on the subject. If you have, I should be glad to have your views? A. I do not think the powers of the present presidents of the boroughs should be either increased or diminished.

Q. You do not? A. No.

Q. You do not think it would be wise to have them members of the board of estimate and apportionment? A. I think they should remain with the same powers they now have. The charter should not be disturbed until it has been given a fair trial, and believing that, I have vetoed every bill that would disturb it.

Q. Your opinion is that the charter has not been in effect long enough to give it a fair test as to the working of the different departments? A. I am agreeably surprised with the success we have met in it, and I would not disturb it.

Q. You think it is unwise to disturb it? A. I do, sir.

By Mr. Moss:

Q. Do you remember that this department we are speaking of having offices in the New York Life building, applied to the commissioners of the sinking fund, of which you are a member,

asking to have their offices changed? A. I cannot recollect that; it would be on the records.

Q. I will ask you to refresh your recollection; you know a good many departments are going into the syndicate building on Park Row, don't you? A. Yes, I know all the departments in the department of public improvements are.

Q. Don't you recollect now they asked to be permitted to remain where they were, in the New York Life Insurance building? A. I don't remember; maybe so.

Q. Because it had better accommodations and was paying less rent there? A. I think the chief of the bureau is very well satisfied to be anywhere.

Q. That is Mr. Nagle? A. Yes.

Q. I ask you to notice what Mr. Harvier is stated to have said—— A. What do you read from?

Q. From an interview with Mr. Harvier, published in the Herald of May 5th; that is a very recent date? A. Do you pay much attention to those interviews?

Q. Often they are quite correct. I asked Mr. Croker about quite a number of them and he agreed with nearly all of them. I will read you what Mr. Harvier said: "Tammany wants no statistics and no reports; if we had been able to present the facts and figures which the law requires, the Mazet committee would have plenty of material on which to work. The charter commissioners established what was designed to be an independent board, serving without salary and not subject after appointment to the caprice of a mayor's removal. The members were to supervise the doings of the mayor's executive appointees, and were to be appointed with special reference to their ability to give expert advice on municipal subjects. The statute provides that the commission should meet at least once a month, and that it should generally supervise the collation and publication of the reports of the several municipal departments. Such was the intent of the charter. The extent to which it has not been carried out is shown by the lack of proceedings of the commission. In January and February there were no meetings. On March 25th the board organized, but from April to November there was no quorum. On November 3d there was a quorum, but no business, and in no month since then has the necessary number of members attended. No meeting was ever called in the months of

January, February and July, 1898. The purpose of the Tammany Hall organization has been to thwart any investigation into the municipal administration, and to give some of the heads of departments a free rein. There are no department reports. There is no scrutiny of their operations. Millions of dollars are expended and other millions of dollars collected subject only to the scrutiny of one man, the comptroller"—

The Witness—Why don't you call him and ask why the millions of dollars are expended?

Mr. Moss—We will. "Subject only to the scrutiny of one man, the comptroller, whose authority extends only within the limit of actual appropriations." Do you know that the comptroller has the power to issue consolidation stock himself; did you know that? A. On resolution of the board of estimate and apportionment.

Q. Does he always require a resolution of the board of estimate and apportionment? A. Yes, sir.

Q. And who composes that board? A. The mayor, the comptroller, the president of the department of taxes and estimates, the corporation counsel and the president of the council.

Q. And is any report of that board made to any officer except yourself? A. It is all public in the City Record.

Q. But is any report made to anybody who is charged with the supervising power over its action? A. I don't know. But it is always published in the City Record so that the public may know what it is doing.

Q. He says there has been no report of the police department printed since 1897; are you aware of that fact? A. I don't know. They dump them in on me; I am very busy. The volume of business is very great. I cannot follow all its details.

Q. I realize that; you are charged with great responsibilities? A. I assume all I am charged with.

Q. For instance I will read you from one section here. Section 115 of the charter, with which of course you are familiar. Third subdivision: "To keep himself informed of the doings of the several departments. Fourth: To be vigilant and active in causing the ordinances of the city and laws of the State to be ex-

ecuted and enforced, and for that purpose he may call together for consultation and co-operation any or all of the heads of departments." You don't recollect whether or not the police department has reported to you as mayor? A. That I can't tell; the records will show; every report that comes to my office is indexed and cross-indexed.

Q. It says: "There has been no detailed street cleaning department report since the one last prepared by Colonel Waring, and the money for the publication for that has been withheld and has had to be raised by public subscription." "Without a quorum—four members—in the statistical board, this evasion of the charter could be indefinite had it not been brought to a head by the resignation of Mr. Motley and Mr. Whitney. Such action is most creditable to both gentlemen, and it is, I believe, to be followed by other resignations. Some members of the board, I understand, do not desire to lend by tacit silence their assent to such a condition of affairs as I describe. I have been diligent in the performance of my sworn duties and I have no intention of resigning."

The Witness—Do you think it is fair to spread before the whole world an interview with one man without getting him here on the stand?

Q. Not if we refuse to call him, of course; but I assumed that you, as mayor, must be aware that there was such commission as this, and whether it was doing anything, and when you said you have no personal recollection, I read this to you primarily to refresh your recollection? A. Do you know the reason they did not have a quorum?

Q. Tell us. A. Because they are not paid.

Q. Should they be paid, do you think? A. I think every public officer should be paid.

Q. Do you think every public office is of sufficient importance to make it a pay office? A. If it is of any importance at all it is.

Q. Do you think this is? A. I can't answer.

Q. A board to receive the reports of the various departments and arrange them and submit them to you? A. There should be no public officer whose duties are so insignificant as not to



deserve a salary. I suppose you know you cannot get a meeting of the members of bank directors unless they are paid twenty or twenty-five dollars to go and those gentlemen are the rich men of the community.

Q. But, Mr. Mayor, if the city departments of which you are the head are studiously refraining from giving to that commission the reports they should have, is there any reason why they should spend their time in fruitless meetings? A. I don't know that they are.

Q. I find from the City Record that the bureau of municipal statistics has a number of employees; John T. Nagle, chief of department, receives a salary of \$3,500, and there are other salaries amounting altogether to a little over \$10,000. A. Ten thousand, I think. He put in a requisition I think for fifty thousand, and we cut him down to ten.

Q. Why did you do that? A. Because we thought that sufficient.

Q. When a commission is receiving no salary and is supposed to transact a business without expense to the city, do you think it a matter of such importance as this that it is unfair to allow them \$15,000? A. Fifty they asked.

Q. For clerical help? A. Yes, sir.

Q. Did you think it was fair to restrict it to that extent? A. I cut it to sixty-five because thirty-five is fixed by statute, you know. I gave them about ten per cent. of what they asked.

Q. In section 137 of the charter, "The bureau of municipal statistics shall publish annually with the approval of the board of estimate and apportionment a volume, to be known as the 'Municipal Statistics of the City of New York for the year .'. In this volume the statistical commission shall publish, in so far as it may deem advisable, the results attending the work of the various departments of the city government for the preceding calendar year and such other statistical information and facts as it may deem of general public interest." Then follows various subdivisions of the work of the city which they are required to pass upon and to report. In refreshing your memory by recalling this provision do you believe that that commission serves or is intended to serve a useful purpose? A. That I cannot tell. I cannot see the use of duplicating all these reports, and I know they

wanted the money to take all these reports in the various departments and put them in one big book.

Q. You know they wanted that? A. I do; and I know it would cost them \$35,000.

Q. You know they wanted the money to take these reports printed at random in various departments and systematize them to show the results, so the inhabitants of the city of New York might see for themselves what the government is doing? A. They can see that now from the departmental reports.

Q. Then they have to go to every department to secure the reports? A. So they would have to go there.

Q. From your statements it is perfectly clear to me you do not think that they ought to have from the city government the amount of money that is necessary to carry on that work? A. I don't say that. I say they have got as much as I think they ought to have at the present time. You know sometimes we give them more money than at another time, for instance, the Brooklyn library, we only gave them five thousand last year; this year we increased it to forty; so we change our ideas as we investigate.

Q. You don't know and have not thought it necessary to inquire very much whether the departments are supplying this commission with the necessary information? A. I think so. Nagle would publish most everything he hears. He is a good deal like you; he pays a good deal of attention to the newspaper reports.

Q. I think that would be a good thing for you once in a while, Mr. Mayor; the newspapers furnish a good deal of information? A. I think they give a good deal of information. I often get a good beat from them. We had a demonstration to Admiral Sampson, and I think Mr. Nagle wanted to spend \$10,000 gathering all the reports from all the newspapers in reference to that demonstration. I think it was fifteen estimated.

Q. You don't mean to say the average citizen can take up the various city records and glean from them an idea of what the city is doing, do you? A. I don't think there is one citizen out of a thousand would ever read the report if you put it in his hand. I know I double them up in the waste basket; you know I get hundreds of them from other places.

Q. Is it with your approval that the departments are being concentrated in the Syndicate building? A. I think that is a wise thing; yes.

Q. Did you discuss it with anyone? A. I think it was discussed in the Sinking Fund Commission.

Q. Was it discussed in the Democratic club? A. Not that I know of.

Q. Did you ever speak to Mr. Croker about it? A. I did not; I think not.

Q. Are you sure of that? A. There is so much talk going on when a man is consulting with 500 or 600 people a day talking with me and asking for most everything, I can't tell you. I think not. It wouldn't have had any influence on me if he had.

Q. But you did consult with him, didn't you? A. No, I did not. I didn't consult with anybody.

Q. Didn't you ever consult with Mr. Croker? A. No, sir.

Q. Didn't you consult with him at Lakewood about appointments of heads of departments? A. I talked it over. I think everybody in New York applied to me for a position.

Q. Undoubtedly. And you had to make a selection? A. I did, and I made them myself.

Q. You had to have some one to aid you? A. No.

Q. Do you mean to say the selection of every head of departments made at Lakewood was your own choice? A. There wasn't any made at Lakewood.

Q. Where were they made? A. New York city.

Q. Didn't you go to Lakewood at the time of the gathering of the leading members of Tammany Hall right after election? A. Just after election everybody was tired out and they all left New York except me; I said, "The people have elected me and it is my duty to stay here," and I staid here five or six weeks, and I think in that time I must have had 10,000 letters and certainly saw 5,000 or 6,000 people that wanted office.

Q. Wasn't you at Lakewood at all? A. Certainly.

Q. Didn't you talk with Mr. Carroll about some of these matters or the appointments of heads of departments? A. There was a running conversation.

Q. Didn't you talk to Mr. Carroll and wasn't the names of men mentioned? A. I think very likely I did. I have known Carroll intimately for thirty years—twenty-nine years.

Q. You have read the report of what Mr. Croker testified, didn't you? A. No, sir.

Q. You have read Mr. Croker's testimony? A. No. In the first place the testimony isn't always reported in full in the newspapers.

Q. It has been reported this time, Mr. Mayor, in full. Before we get to that line, I want to ask you a little more about the Syndicate building? A. All right, sir.

Q. Will you tell me why it was that when there was a concentration of city officers in the Syndicate building, and while there was an unoccupied space yet remaining there, why it is that the health board is to be sent away up to Fifty-fifth street and Sixth avenue? A. The health board ought to be in a building by itself that is away from down town. I wanted to get the health board out of this courthouse.

Q. Well, do you think it is advisable to get the health board so far away from the other departments as Fifty-fifth street and Sixth avenue? A. Yes, sir.. I think it is a very good place for them.

Q. The health board has to do work in connection with other departments, does it not? A. I suppose generally, yes.

Q. It has many cases in this very building? A. Yes; but it ought not to be in this building.

Q. I know; but it has to attend to cases in this building? A. Yes; of course; their lawyer has to come here.

Q. There is the court of special sessions and general sessions, and the people held here for trial on the complaint of the health board; held for trial down town, and the records and all those things that have to be used in court are away up on Fifty-fifth street. Do you think that is wise? A. Yes, I do. I think it is wise to carry them far away from here.

Q. You think the health board should be absolutely separated from every other department? A. I think not; not absolutely. But it should substantially have a building for itself.

Q. It is separated from every other department up there? A. There are two other departments in with it. That is, the law department has to have an assistant there and he has a suite of rooms, and then the art commission have a suite of rooms. Not many you know.

Q. So you have a branch of the corporation counsel up there in Fifty-fifth street? A. Yes, sir.

Q. And that is because you moved the health board there? A. No; he was here too; we had him in this building. Wherever the health board is we have him.



Q. You had him in this building and in order to get the health board up there you had to send the corporation counsel's department there? A. Wherever the health board goes, the assistant corporation counsel follows.

Q. You have removed the assistant corporation counsel from down town and sent him there? A. Yes, sir; we intend to.

Q. You intend to send the municipal art commission up there too? A. Yes, sir. We consulted the president of the commission and he said it was a very proper place to have it; there are a lot of studios there.

Q. Were these the reasons in your mind for not having the health board remain down town and take offices in the Syndicate building? A. I wanted to get them away from here. And we contemplated building a building on Centre street for them, and we saw it would take so long, that was the first intention; and the judges in this court complain and say they have not room enough, and this great crowd running in here disturbs the orderly conduct of judicial affairs and I determined that that department should get out of this building—that is the board of sinking fund commissioners, and I was one of them.

Q. This building once belonged to the Democratic club, didn't it? A. I don't know.

Q. Don't you know that? A. No, sir.

Q. Do you remember when the building was put up at auction and withdrawn? A. I didn't know that it was ever deeded to the Democratic club; I don't recollect.

Q. Was it owned by the Democratic club or Mr. Croker? A. I don't know.

Q. You are a member of the Democratic club? A. Yes, sir; ever since Tilden's day. Tilden organized it.

Q. Did you know that that building was sold to Mr. Braker; did you know he was the owner of it now? A. It is there in the record.

Q. Didn't Mr. Braker make an application to your board of estimate and apportionment to have you take that building for some city department? A. Somebody did, because the records will show it.

Q. Wasn't it Mr. Braker, a fellow-member of the Democratic club? A. I don't know that he is a member of the club; if he is it wouldn't make any difference.

Q. I have not said it did; only as the means of refreshing your recollection as to who it was? A. The records of the board of sinking fund commissioners will show what was done.

Q. I know that; but I would like to have you, as a member of the sinking fund commission, tell us about it, without having to go to the records? A. I cannot testify accurately as to the details of these various boards.

Q. You knew Mr. Braker owned that building? A. I don't think I know Braker.

Q. You know who he is? A. No, sir.

Q. Never heard of Mr. Henry J. Braker? A. I may have heard of him.

Q. Do you not know that consideration of that building was had in the first place on account of the building department? A. Yes, sir.

Q. The building department wanted to move? A. Yes, sir. They wanted to go there, and would if it hadn't been for the health board.

Q. They made a request to go there? A. Yes, sir.

Q. Did the health board ask to go? A. I think they filed a petition of that kind; though I don't know whether they did or not. They would have to go if we told them to. That is the way we run business down in the City Hall, Mr. Moss.

Q. Who suggested to the board they should go up there? A. All my official documents are in the minutes; you will have to take the minutes to get the correct information in reference to that. Everything there is in the light of day, you know.

Q. Oh, certainly, certainly. I have here Mr. Braker's application to your board taken from the City Record? A. That is official.

Q. "New York, March 21, 1899. Hon. Bird S. Coler, Comptroller, City of New York. No. 280 Broadway, City. Dear sir.—I am making extensive alterations to my building corner of Fifty-fifth street and Sixth avenue; when finished, it will have the best light of any office building in that section of the city; it will be suitable for the building department, and there is sufficient room for that department and one other small city department. I will lease the building to the city for term of years, for occupancy by two departments at \$18,000 per annum, they paying the water

rent and having full charge of the building, furnishing their own janitor, lights, etc. The city making all repairs at its own expense; if the city is interested, I will be pleased to submit lease. Awaiting your reply, I remain, very respectfully yours, H. J. Braker."

The Witness—The comptroller reported against eighteen thousand.

Mr. Moss—The comptroller reported it should be sixteen thousand. Not the comptroller, but the engineer, Mr. McLean.

Q. You understand the city is to make all the repairs? A. Whatever it says there is correct. Whatever it is in the resolution; I don't know what the resolution says.

Q. That is the request? A. The resolution will tell exactly the terms of that lease.

Q. We will find that. Do you remember the chief engineer reported "There is no show whatever of any fire-proof construction?" A. I don't recollect that.

Q. Here it is. Here is the engineer's report dated April 6th, "There is no show whatever of any fire-proof construction. A. These matters are always referred to the comptroller, and brought out in his report. I know nothing of those things. I rely on that.

Q. Do you not think so important a department as the health department should have its records in a fire-proof building? A. There isn't one in the city.

Q. That is a matter of speculation? A. They all burn. Look at this one opposite the City Hall.

Q. Do you think for that reason the city should not patronize the fireproof building, so-called? A. I don't know. We have a lot of buildings not fireproof.

Q. I know that; but when you were determining whether to take the building on Duane street or the Syndicate building; don't you know the matter of fire-proof construction was examined into? A. I don't know. You will have to go to the comptroller; he makes a report on that.

Q. Do you think it wise to put the records of the health department in a building where the engineer says there is no show what-

ever of fire-proof construction, when you can get a fire-proof building? A. I don't know; I know the mayor has an office that is not fire-proof.

Q. Don't you think the mayor should be, if he is not, in a fire-proof building? A. Yes; but I don't think that it is best to expend \$10,000,000 at this time as they did with the Hall of Records.

Q. Do you believe in putting the records in a fire-proof building on Duane street? A. Put them there and get them under one roof.

Q. And you have to pay more rent for a building that is fire-proof than for one that is not? A. I don't know.

Q. Don't you know it costs more to build them? A. No; I don't know anything about building, except in a general way.

Q. This special report of the engineer that there was no show of fire-proofing in the building didn't make any particular impression on you, did it? A. I don't think I ever heard it.

Q. He also reports "There does not seem to be any special reason why the department of buildings or the aqueduct commission should be changed from their present quarters?" A. There was not.

Q. Did you follow him or was it your own impression? A. I don't think I followed him.

Q. Didn't you say a moment ago, you would have sent the department of buildings there if it hadn't been for the health board? A. I thought so when he reported in favor of it.

Q. He reported there was no reason for making a change? A. I don't remember about it. I would probably never have voted for the lease unless the comptroller had reported in favor of it, though sometimes I vote against his report.

Q. Was it ever suggested to you that some department should be sent there to give a tenant for Mr. Braker's building? A. No, sir.

Q. So the resolution came up, "Resolved, That the corporation counsel be and is hereby requested to prepare a lease to the city from H. J. Braker of the premises on the southwest corner of Sixth avenue and Fifty-fifth, formerly occupied by the New York Athletic club, for the use of the health department, for a term of ten years from May 1, 1899, at an annual rental of \$16,000, payable quarterly; the city to pay the water rent and make all



ordinary repairs; the lessor to make such alterations to the building as will fit the same for use by the city; and the commissioners of the sinking fund deeming the said rent fair and reasonable, and that it would be for the interest of the city that such lease be made, the comptroller is hereby authorized and directed to execute the same, when prepared and approved by the corporation counsel, as provided by section 149 and 217 of the Greater New York charter;" that is the resolution, to rent that to the health department alone, but you have managed to get one other department in the same building? A. The art commission and the branch of the corporation counsel's office will be in there.

Q. Now about this gathering of gentlemen at Lakewood as to discussion of the heads of departments; I read from your first annual report of January 3, 1898: "Fidelity to the pledges upon which the suffrages of our citizens were asked and secured demand that we demonstrate the advantages of responsible government; that we prove that an administration for which a great political party stands sponsor can be depended upon not only to reward merit but as well to deal most severely with any betrayal of the public confidence." In the consideration of which I call particular attention to "for which a great political party stands sponsor." What did you mean by that word? A. That I had been nominated by the Democratic party at a lawfully constituted Democratic convention and had beaten Seth Low by 67,000 votes.

Q. And the Democratic organization is known as Tammany Hall? A. No, sir; sometimes they meet at Tammany Hall.

Q. Isn't that what is known as Tammany Hall? A. They meet in Tammany Hall, the general committee.

Q. You do not mean to say you were not elected, or first nominated, by Tammany organization? A. I was elected as the nominee of the Democratic party of Greater New York.

Q. That is commonly called Tammany Hall? A. No, sir.

Q. You don't consider it as Tammany Hall? A. Tammany Hall is a local organization of the old city.

Q. Were you the candidate of Greater New York? A. I was elected at a convention from all the boroughs of the city.

Q. Who was the leader of the party which you speak of as the sponsor of your administration; who was the leader of it; parties have to have leaders? A. The man most conspicuous in Manhattan and the Bronx was Mr. Richard Croker; the man most con-

spicuous in Brooklyn was Mr. Hugh McLaughlin and I think Mr. Congressman Muller was most conspicuous over in Queens.

Q. Those parties united together to make the nomination and secure the election; do you mean to say it was three organizations that elected you? A. The Democratic party nominated me; the people elected me.

Q. The people who affiliate with what you now call the Democratic party? A. The people who thought I would give a better government than Seth Low.

Q. Now, just what do you mean by the word "sponsor." "Stand sponsor?" A. You will have to consider that yourself.

Q. I want you to consider it because it is your language? A. I do not care to go into that. You better not go into a moot court. It stands for what it is.

Q. This is a public document and the author of the document is here now—— A. I repeat what I say there. You can draw the inference. I stand by it here.

Q. Yes, of course. I had no idea you would do other than that. I wouldn't respect you if you did. A. It is not your respect I seek. It is the respect of the people of New York.

Q. Nor would the people of New York respect you? A. They think pretty well of me when 64,000 more come to us after a year's administration.

Q. I say they would not respect you if you went back on the language of your first annual report? A. You need not bother about that. I will take care of myself.

Q. I ask you again to enlighten the minds of the Legislature regarding this word "sponsor" in your report? A. I would not take it on myself to enlighten the minds of the Legislature.

Q. I don't ask you to take any contract? A. I repeat that now and I stand for it.

Q. What does it mean? A. Means exactly what it says.

Q. The "sponsor" if anything is the one who is responsible; the one who is responsible for a thing is responsible not because he causes it to come forth but because he maintains some kind of control over it; otherwise he could not be held responsible. Now that is the fair meaning of the word "sponsor" and since you decline to tell what you meant when you put that in your first state paper, and until you do, I conceive it to be a reasonable definition from elementary sources? A. I hope you enjoy your definition.

Q. Well, do you? Is my definition a correct one? A. You will have to find out somewhere else.

Q. Do you attack its correctness? A. I would like you to ask me some proper and material question.

Q. I consider that a proper and material question? A. I do not.

Q. Of course silence is just as eloquent as an answer sometimes and I ask you now if that is not a correct definition of your word "sponsor" to correct it. A. Do you think so?

Q. You are not correcting it and, therefore, I take it and we will certainly all take it, that your view does not differ from mine? A. I am glad you enjoy your oration.

Q. I do enjoy it when I find I agree with the mayor. That is, we know one thing; we have agreed upon the definition of the word "sponsor?" A. You say so; I do not.

Q. Now will you tell why you don't agree with it, will you or will you not tell me where I have mistaken your meaning in the use of that word "sponsor?" A. I won't answer that.

Q. Very well; because you cannot. Now then, this great party which launched your administration and which maintain a control of it sufficient for you to use the word "sponsor" is that the party which you have referred to as having Mr. Croker for the most prominent man in Manhattan and the Bronx? A. I say the party that nominated me for mayor, Mr. Croker is the most conspicuous member of it in Manhattan and the Bronx.

Q. And is he not the most conspicuous member in the entire organization or organizations which put you in nomination and fought your battle? A. I don't know.

Q. Do you know anyone more prominent? A. I think there would be a wrangle if anyone challenged some of the others.

Q. He himself said he knew of no one that had more power than he? A. I am answering these questions; I don't think that amounts to anything.

Q. Who is in the organization which is the sponsor for your administration that has more power than Mr. Croker? A. No one has more power than I have.

Q. You have the power if you use it? A. I do use it.

Q. Have you done a single thing contrary to the wishes of Mr. Croker? A. I have done whatever I thought was right.

Q. Have you done a single thing contrary to his wishes? A. I don't know.

Q. You have never heard of it, have you? A. I can't tell.

Q. Every appointment you have made has given him satisfaction? A. I guess no one can please everybody.

Q. It would be remarkable if you did, and I think it remarkable if you please Mr. Croker? A. I fancy I do not.

Q. Have you ever heard of any that did not please him? A. I have done what I thought best.

Q. You have never been called to account for any act you performed? A. Nobody dare call me to account.

Q. You mean to say you are a larger man than Mr. Croker? A. I mean to say no man dare call me to account for what I do.

Q. Even Mr. Croker? A. No man on earth, except a court; no individual.

Q. If there is no man that ever called you, as the head of the administration, to account, how can you say that anybody stood as sponsor for your administration? A. You have got that.

Q. That is a hard question to answer? A. No, nothing is hard; isn't hard to answer.

Q. Can you answer it? A. Put some other question, Mr. Moss.

Q. All right; I will oblige you. If you can't do any better than that we will have to take it as it is. Do you mean to say you sit in the mayor's chair entirely independent of any influence whatever with regard to your appointments? A. Yes, sir. I am judge of everything. I won't make an appointment for anybody if I don't think it is all right.

Q. Of course not, though you made an appointment of no one, outside of a bi-partisan office, that did not come right out of the Democratic club? A. When I made them, the Democratic club was a very small affair. They had not organized—it was organized, but Mr. Croker had not gone into it until that time.

Q. They are all in it now? A. There is quite a lot.

Q. You know of any that are not in it? A. I don't know who is in that; I suppose there are 3,000 members or 3,500. I can't tell; I don't suppose I know twenty-five per cent. of them to speak to.

Q. Wasn't Mr. Croker with you on the 31st day of December, 1897, at the Murray Hill hotel when you were making the final arrangements for the induction of the new offices? A. I can't recollect; very likely. That was the 31st of December?

Q. Yes; the day before you assumed your official duties? A. I don't know; very likely.



Q. Were you and Mr. Croker both together receiving the gentlemen who came up that had been selected, and making certain that they would be on hand in their places the next day? A. Nobody selected for me.

Q. That is not an answer to my question. Were you not there with Mr. Croker, receiving and talking with these men? A. I was not receiving anybody. I may have been there talking with Mr. Croker and some came in.

Q. Mr. Mayor, is it contrary to your opinion of political ethics that there should be a leader of the party whose voice, representing his organization, should have great influence and weight with the chief executive; is it contrary to your opinion? A. I don't know anything about that. I am here to answer questions as to facts.

Q. You are not willing to answer that question? A. I am willing to answer every fact.

Q. You are not willing to answer that question? A. You better call Senator Platt and ask him that question. He knows more about leaders than I do.

Q. I am asking you. I am asking a higher authority on municipal matters than Mr. Platt? A. You don't want to say that to him.

Q. I am asking you? A. Go to some other question.

Q. Do you decline to answer that question? A. Yes, sir; I decline to answer.

Q. You might have done that before. A. Next fall, if you want me to go on the stump, I will debate that question with you.

Mr. Moss—Let us conduct this examination as it should be. This is a very serious matter we are discussing.

The Witness—Put serious questions and you will get serious answers.

Q. We are trying to find out and talk about the influences that control the government of the city of New York. A. I will tell the immediate influence that controls the mayor. It is Robert A. Van Wyck.

Q. Nobody else? A. Nobody else.

Q. Nobody else dares to? A. Nobody else dares to control me.

Q. Do you mean to say that the heads of departments ap-

pointed by you were not selected in conference with other men than your own self? A. Yes. I say if Mr. Croker had been dead, and had been dead four months before, I would have appointed every one of them.

Q. Do you mean to say he had no voice in the selection of these gentlemen? A. I mean to say my mind finally reached a conclusion about putting everybody in.

Q. Do you mean to say he had nothing to say about the selection of those men whom you appointed? A. I suppose every man in New York said something about it, and he included.

Q. He included? A. Yes.

Q. Do you mean to say that the gentlemen whom you appointed as heads of departments were not the selected of the organization which you refer to? A. No, sir; the selection of the mayor.

Q. Were they not suggested to the mayor by the organization? A. They were suggested by six or seven thousand people—ten thousand.

Q. In those six or seven or ten thousand, were they not suggested to you by the organization representatives? A. Officially by the organization?

Q. By the organization representatives? A. No.

Q. Were they not suggested to you by Mr. Croker? A. Suggested to me by everybody in New York.

Q. Were they not suggested by Mr. Croker? A. I suppose he talked them over like other people.

Q. Did he not talk with every or most of them? A. I don't know. They were my appointments and I stand sponsor for them. I would have appointed them if he had been dead.

Q. And who stands sponsor for you? A. I stand sponsor for myself.

Q. Are you now on the platform that you stood on in 1898? A. I am not on a platform; I am sitting in a witness chair now.

Q. That is what you mean by coming here to testify to facts? A. I will testify to facts; anything you want to ask me.

Q. Let us take one office by way of illustration or example; let us take the office of chief of police. Did you not have consultations and conversations with members of the organization

relative to the incumbency of Mr. McCullagh as chief of police?  
A. No, sir; I had nothing to do with the appointment of the chief.

Q. Relative to his incumbency of the office? A. I talked with him.

Q. You talked with him, but before you talked with him did you not talk with members of your organization? A. I don't recollect who I talked with; I talked with everybody that came in there in the mayor's office, to make complaints, saying McCullagh did this and McCullagh did that, and another man did that. I heard them all.

Q. When you talked with McCullagh you believed that he was not a proper man to be retained as chief of police, didn't you? A. When he said——

Mr. Moss—Wait a minute, witness.

The Witness—When he said he would have to make a transfer unless Mr. Hamilton——

Mr. Moss—Wait a minute. You will get a chance to make your speech, Mr. Mayor, in response to questions. Everything will come out, but I want an answer to my question, and as the mayor of New York and a gentleman who has had judicial experience I ask you to be fair?

The Witness—What is the question?

(Question read.)

A. I told him so.

Q. You believed it, didn't you? A. I told him so.

Q. They do say lawyers make poor witnesses, but I would like direct answers? A. I never say anything I don't believe.

Q. Did you believe it? A. I never make a statement I don't believe.

Q. Did you believe he was not a proper man? A. The reason I told him that was because I believed it.

Q. Is that the best way you can answer the question?

Mr. Hoffman—They couldn't be more responsive.

Mr. Moss—All right.

Q. And at that time did you have in mind any one who would be a better chief in your judgment than McCullagh? A. No, sir.

I didn't care who was chief so long as the right man—that is a competent man.

Q. Did not Mr. Carroll talk with you about that matter of the chieftianship? A. No. Do you mean about Devery?

Q. No; about the chieftainship of the force? A. No.

Q. Had no talk with Carroll? A. I never interfered in that matter.

Q. I didn't say interfere; I said talk. Wasn't that matter mentioned to you? A. They talked so much I can't tell what they do talk about. They talk until I close the door and go to bed and then once in a while a newspaper man rings me up then.

Q. Isn't your difficulty largely because you haven't a clear recollection of those matters? A. I have no difficulty here.

Q. You have again and again said you do not remember things; isn't it because— A. No one human man could remember it all.

Q. Because you have so many things that it is impossible to remember all the details? A. I do not suppose I can remember all the details.

Q. When you talked with Mr. McCullagh and concluded he was not the right man, did you conclude so from his statement to you or from other information that you had? A. I told him—he had transferred two officers, either sergeants or patrolmen, from the city hall station, which was considered——

Q. One moment. I am going to ask you for that in a moment. I am going to ask you for the whole conversation, but the question which you are now answering is different. I will put it to you again. When you concluded that he was not the proper man for that place, did you make up your mind from his statements only or from statements that had been made to you in connection with his request? A. From what I had learned generally, and I told him to go back and attend to his business——

Q. We will get that all right. From whom did you learn anything generally? A. I don't know; everybody who talked to me.

Q. Was there any general complaint about the efficiency about Mr. McCullagh? A. I will tell what the complaint was.

Q. Wait a moment. When you formed a judgment that he was not the proper man for chief did you at the same time form a judgment that the two Republican commissioners in the board



were not proper men to be commissioners of police? A. I didn't act on the question; he wasn't the proper man if he continued to do what he had done. I told him to go back and behave himself and he would have my support.

Q. When you made this conclusion which you did about Mr. McCullagh, which you said you did on your conversation with him, did it include the two Republican members of this board, Mr. Hamilton and Mr. Phillips? A. I don't know about that; I will tell you why I removed the other two?

Mr. Hoffman—Give us the conversation.

Mr. Moss—I am not ready yet.

The Witness—I will wait for Mr. Moss. He says he is going to come to it.

Q. When did you first have any complaints made that produced an impression upon your mind that Mr. Phillips and Mr. Hamilton were not proper men to be police commissioners? A. I made up my mind as regards Phillips the day he was indicted. I made up my mind in regard to Hamilton as soon as I had my conversation with Hamilton.

Q. And that was before or after your conversation with McCullagh? A. I can't recollect that.

Q. Was not Mr. Phillips indicted a considerable length of time before he was removed? A. He was, and I wrote him a letter that he must seek a speedy trial, and that unless he did that of course I would have to remove him in the public interests, and he didn't do it, and I removed him.

Q. There was no such reason as that in the case of Mr. Hamilton, was there? A. Mr. Hamilton—I will give you that conversation with Mr. Hamilton. I sent for him. I called Mr. Hamilton up on the 'phone. He came down to the mayor's office, and I told him that I had heard that he said that McCullagh had agreed not to make any transfer of any member of the force, down to patrolmen, in Manhattan and the Bronx, unless he (Hamilton) consented, and that he, Hamilton, would not consent unless he had consulted with Mr. Quigg; and I asked him if that was so. He said it was all true except as to Quigg; that he didn't say Quigg, he said Senator Platt. I told him then that the police department had been the

department that had practically wrecked all the administrations, and that that department could not be run from Washington, and that I would have no wrangle in the force; I would not have it then, and I won't have it now. If the police commissioners ever get to wrangling, and carrying on as they have for the last eight or ten years, I will remove them; and I removed him, exercising that authority that was conferred upon me by the charter, to remove him without cause.

Q. Was your sole reason for removing Mr. Phillips the fact that he was indicted? A. Not because he was indicted, because I would not remove a man because he was indicted.

Q. Because he did not get a speedy trial on the indictment? A. Because he had dragged it out so that he could not be tried until the six months elapsed. I was not going to let it go until then, and lose my power within the six months. You understand that I had the right for six months to remove anybody without cause.

Q. With reference to Phillips, the entire cause was in connection with the indictment? A. Simply the delaying it on his motion. He first made a motion to quash the indictment before Justice Van Wyck, in Brooklyn, and he denied it; and he then went before a Republican and made substantially the same motion, Judge Hirschberg, and he granted it, and that went to the Court of Appeals, and he was reversed, and Judge Van Wyck was finally held to be right; and he had to go to trial and the jury disagreed.

Q. That was the whole thing with reference to Phillips? A. Not because he was indicted. They indict innocent people sometimes.

Q. With reference to Hamilton, the sole cause was what seemed to you to be his control from an outside source, as revealed to you in that conversation? A. Because he stated to me that he would not consent to McCullagh exercising his power under the charter to transfer any member of that police force, unless he (Hamilton) said so, and he (Hamilton) would not say so until he had consulted Mr. Platt, and Mr. Platt was in Washington.

Q. Did you understand that Mr. Hamilton had any power to interfere with the chief of police in his transfers? A. No, I know

he hadn't. He said the chief had said so; that it was all true. And that conversation was in the presence of two witnesses, with Mr. Hamilton.

Q. We have the exact reasons with reference to these two men, why they were removed, haven't we? A. No, I thought it was the public service, under that general clause in the charter.

Q. What other reasons from those you have mentioned were there that influenced your judgment about the public good? A. Because under the charter their appointment, with all other commissioners, were merely on probation, and I had determined that those two men were not fit to be in the police board.

Q. And why was Mr. Hamilton not fit to be in the police board? For any other reason than you have mentioned? A. Because he had an understanding with McCullagh not to act unless he had the consent of Mr. Platt.

Q. What were the other reasons? A. He blackmailed the managers of the Casino.

Q. Hamilton did? A. Yes, sir.

Q. Have you proof of that? A. He had a claim, Hamilton & Sons, in which he was a member, against Canary & Lederer, and they failed. Of course he lost that money. When he became a police commissioner he refused to grant the license until the new concern paid the bill, and they paid it and he granted the license.

Q. Was there anything else? A. I thought he was not a fit man to be in the police board, and I still think so.

Q. Was there any other reason than what you have mentioned? A. Because, in my judgment, I thought it was for the best interest of the public.

Q. For any other reason than you have mentioned? Judgment is founded on reason. Have you given all the reasons? A. Yes, sir, I thought that he and Gibbs and Quigg and McCullagh were combined, and we would soon have a repetition of what another Republican commissioner had done, Mr. McClave. I thought we were approaching the condition where promotions would be sold.

Q. And you feared that that was what Mr. Hamilton would do? A. I think a man that would blackmail the Casino would do that.

Q. As the chief magistrate of the city, did you cause any criminal proceedings to be brought against Mr. Hamilton? A. No.

Q. Did you advise that it should be done? A. No, sir, I don't think so.

Q. Did you discuss it with the district attorney? A. I think not.

Q. Why not? A. Oh, the district attorney runs his office.

Q. I know, but you run the offices of the city, do you not? A. Yes, sir.

Q. And you are entitled to his services to assist you to run them? A. I sent a lot of papers against the old board of public works, and he was not indicted, and I got tired of that business.

Q. Are you tired of the district attorney? A. No, sir, I am not tired of him.

Q. Did you consider him worthy of confidence? A. Yes, sir.

Q. Why did you not put this important matter, referring to Mr. Hamilton in the hands of the criminal authorities of the county? A. I gave it to the newspapers; everybody knew it.

Q. Did you think the newspapers would bring on a trial of Mr. Hamilton? A. I didn't know anything about that.

Q. You did not really think that that would help to get a blackmailer into prison, did you? A. I didn't give it a thought. I have very little revenge in my nature.

Q. It is not a question of revenge. It is a question of the discharge of your duties to the municipality, under the provisions of the charter—to be vigilant and active in causing the ordinances of the city and the laws of the State to be executed and enforced; and the law of the State is that a blackmailer shall be arrested and prosecuted and sent to prison. When you find him in your own official family, one of your own appointees, do you mean to say you do not give it a thought? A. I didn't call the district attorney's attention to it, I don't think. I don't know whether I did or not. I was seeing him almost every day at that time; very likely I did.

Q. Now, you think you may have mentioned it to the district attorney? A. No, I don't say so. I made it public property.

Q. Do you consider making it public property is the end of your duty in such a matter as that? A. Well, the question of criminal prosecution, the gravamen of a criminal charge is crimi-



nal intent, and as you see by these trials in Brooklyn you can't convict without strong public opinion. There was Willis and Phillips tried over there the other day, and yet you could not convict.

Q. Was it right to have Mr. Willis and Mr. Phillips indicted and tried? A. Yes, of course.

Q. It was? A. Yes, sir.

Q. And was it not then right to have had Mr. Hamilton indicted and tried? A. I don't know.

Q. You have some doubt now, as I understand your testimony, whether there was any criminal intent? A. No, I don't say that.

Q. You do not say that? A. No.

Q. Then upon your own statement—— A. All I can say is that he was unfit, in my judgment, to be a police commissioner.

Q. It was a case that should have been indicted and prosecuted, was it not? A. I don't know whether it was or not.

Q. Are you really serious when you say that Mr. Hamilton, in your judgment, was a blackmailer? A. You call him to the stand and ask him if he didn't collect that bill.

Q. I ask you, are you serious in your statement here that you believe he was a blackmailer? A. I did. I believed it. I had no evidence of it, except what I was told.

Q. That is evidence, is it not? A. No; a man ought to be put under oath and cross-examination.

Q. And there are ways to put him on oath, and you, as the chief magistrate, allowed that matter to go by and did not discharge your duty, did you? A. No—well, you say that.

Q. Do you admit it? A. I always discharge my duty.

Q. Did you discharge your duty then? A. Yes, sir, exactly; I got rid of him. That was my duty.

Q. How could there have been any blackmailing? A. Ask him about it, and put him on the stand. Cross-examine him, and ask him if he didn't collect that bill after he was a police commissioner.

The Chairman—He will be put on the stand. I think it is a perfectly fair question Mr. Moss is asking you. You have taken a certain course of action, and I think we have a right to know

what motive actuated you, and what your judgment was based on in the course you took.

The Witness—Under the charter I had an absolute right to remove any one of those officers, for the first six months, without any cause.

Mr. Moss—That is evading the question, in all fairness.

The Witness—That is the reason I removed him. I did not remove him on charges.

Q. You say you removed him because his character was bad and because he had committed a crime? A. I say I removed him because I thought he was not a proper man to be there, and I exercised my authority under the charter; and I removed two others—Doolin and Murray.

Mr. Moss—We have it from your own lips upon this witness stand that, with your duty resting upon you under the charter, you had evidence that one of your police commissioners was a blackmailer, and you did not lay it before the county authorities.

The Witness—I turned him out and put another Republican in his place.

Q. Do you consider that is 'a performance of your duty under section 115 of the charter? A. I say I performed my duty in every regard, as far as I know.

Q. As far as you know? A. And I think I know.

Q. And you think you know? A. I do.

Q. I thought you had limited your answer unwittingly. Now, Mr. Mayor, in defense of your own act you have attacked the character of others? A. I have not attacked anybody. I say I didn't—I know what he told me was true himself.

Q. You have made allegations reflecting upon the character of individuals, and as these are your alleged reasons for certain very important proceedings on your part, it is only right that they should be brought out in their fullness? A. I removed him because he admitted to me what he did.

Q. Do you mean to say that he admitted that he was a blackmailer? A. No. I am talking about the conversation with reference to the transfers by Chief McCullagh.

Q. Which was the larger in your mind, the blackmailing thing, or McCullagh? A. About McCullagh. I never take hearsay tes-

timony. He will answer that, though. He will tell you all about it.

Q. So now this blackmailing business has shrunk to a matter of insignificance in comparison with the other? A. I would not admit a man guilty on the word of another, until he was put under cross-examination.

Q. Did you have doubts about his being a blackmailer? A. I have always doubts when a charge is made against a man, until he himself has an opportunity to cross examine.

Q. You said you believed a combination was being effected between Hamilton, Quigg, Gibbs and McCullagh to sell positions, did you not? A. I thought it was leading to that.

Q. Had you any basis for that judgment? A. Well, I had quite a lot of rumors and things around. Not enough to say it was so, but from his conversation I inferred that.

Q. You will find, and all witnesses will find that take this stand, that they will have a full opportunity to give all of their reasons for every official act they have performed; and I want you to know—— A. (interrupting) Under the charter, I didn't have to give any reasons.

Q. Under the charter you did not have to give any reasons? A. I did not.

Q. Is that your answer to my proffer of the full freedom of this room and of the witness chair? I say you have here, now, in your own way, and in your own language, absolute freedom to give any reasons, or bases of facts for the charges and insinuations you have just made? A. With reference to the conversation I have testified to with Mr. Hamilton, that is absolutely true. The other I heard from other parties, and I do not know whether it is true or not. I will tell you——

Mr. Moss—I am talking about the combination to sell places.

The Witness—Oh, I inferred that from the conversation.

Q. What you did as the result of the conversation was a very important act, an act that startled the community—— A. (Interrupting) I don't think so.

Mr. Moss—Oh, yes, I think so. You are entitled to an opportunity to make the fullest explanation and fullest statement of it that you can possibly make, and you shall have it.

The Witness—Well, I removed him after the conversation I had with him, because of the conversation, and because of my right under the charter.

The Chairman—Pardon me. You have stated here publicly on the witness stand that you were apprehensive that a combination might lead to selling offices. I think that statement is of such importance, coming from the chief executive officer of the city, that you ought to give some basis for any such conclusion as that.

The Witness—All I could give was that conversation I had with Mr. Hamilton. He did not say anything of that kind. Of course not. I was very fearful of the consequences. I knew that the old board had wrangled until the people became sick of it, and I determined that they should not become sick of my commissioners; and I will remove them now if they get into a wrangle. I will find a way to do it under the law.

Q. Mr. Hamilton's conversation with you was the only basis for your conclusion that there might result a combination which would lead to the selling of offices in the police? A. No.

Q. There were rumors besides that? A. All rumors around. I don't say that Mr. Hamilton said a single word that implicated him at all.

Q. You just stated that your conversation with him was the basis for this conclusion that you had come to? A. One of the bases; yes, sir.

Q. There was no other basis? A. Oh, yes; I had a lot of rumors around.

By Mr. Moss:

Q. Were there rumors that you wrote down on any memorandum book? A. No, sir; I never make a memorandum. I take everything in my head and then quit. Come pretty near going crazy at that.

The Chairman—You are entitled to sympathy.

The Witness—I am much obliged to you for your kindness.

Q. You wanted a little while ago to give your entire conversation with McCullagh. Have you done so? A. I don't know. I have testified to so much there that I really don't know what I have said.



Q. Will you tell us just what occurred between you and McCullagh? A. Well, McCullagh had transferred two officers; whether they were sergeants or roundsmen or patrolmen, I do not know, from the City Hall station, and one of them was a Democrat and the other was a Republican. Two or three days after he re-transferred the Republican back down there, and left the Democrat up to do station duty—to be on the beat, or in the station house, I don't know which. He came to me to complain. I sent for McCullagh and told him a man that would do that was not fit to be a chief of police, and that I had heard that he said he would not make a transfer there in the Manhattan or Bronx—only the Manhattan and Bronx, the combination was—unless Mr. Hamilton had consented, and that Mr. Hamilton said that he would not consent unless he had consulted Senator Platt; and I said, "This thing has got to stop. If you will go back there to headquarters and be the chief of police and a fair man, I have got no fault to find, but this transferring of a Republican back to a soft place, and leaving the Democrat up there, don't meet with the approbation of any fair-minded man."

Q. Is that all you said to Mr. McCullagh? A. I told him he was a liar.

Q. Anything more? A. I asked him what the politics were of these men. He said the captain's—he said he didn't know the politics of any captain or inspector or chief there, and I said he was a liar.

Q. You asked him in that interview what were the politics of his officers, did you? A. Yes, sir.

Q. And he said he did not know? A. He said he didn't know.

Q. And you said he was a liar? A. And I know he was.

Q. Why do you know that? A. Because no man could be chief of police and not know the politics of the inspectors and captains.

Q. Then you took the responsibility of declaring a man a liar because of your general and superior view of the situation, and your judgment of human nature? A. No, I called him a liar because I thought he was a liar.

Q. You called him a liar because you thought he was a liar, simply because you judge that a police superintendent must know those things? A. He did know it, of course.

Q. How did you know it? A. I didn't think anything about it. I knew he knew it.

Q. How did you know it? A. Because no man that has got any brains could be there that didn't know it.

Q. Then you assumed to get inside of his brain, and to know the operations of his brain. A. No, his brain is too small for me to get into.

Q. Was that one of the reasons why you had him removed? A. Why?

Q. Because his brain was small? A. Yes, sir, I thought he was an inefficient officer, and I thought he was a coward.

Mr. Moss—Now, we are getting some more reasons.

The Witness—I still think so.

Q. Inefficient and cowardly? A. Yes, sir.

Q. And you think that the present chief is efficient and brave, do you? A. I don't know.

Q. Do you think so? A. I don't think at all.

Q. Do you believe so? A. I can't tell.

Q. You helped to make him, did you not? A. I did not.

Q. You helped to retire McCullagh, did you not? A. So far as confirming the resolution.

Q. And he could not have been retired without your action, could he? A. Certainly not. Otherwise I would not have acted.

Q. Exactly. And you practically came down out of your chair as mayor, and became, for a moment, a police commissioner to retire McCullagh? A. I exercised my authority under the charter.

Q. Because you had then in power an incomplete board of police did you not? A. I had three members there.

Q. Exactly; and the law calls for four, does it not? A. Yes, sir.

Q. What was the matter? Had you not been able to find another Republican who would do the deed besides Mr. Hess? A. The reason I acted on that Saturday morning was that I was informed that papers had been prepared to present to a Republican judge who at that time was holding Part II, Supreme Court, Judge Cohen, for an injunction, so as to lock it up until the six months elapsed. Of course I did it that morning, and got to work before they got the injunction.

Q. Why did you not find another Republican commissioner? A. I could not find him that morning.

Q. You could not find another man that would come in with Mr. Hess and do that act you wanted done? A. I asked Mr. Hess to do nothing at all.

Q. How did you get it into his mind that the man who appointed him wanted him to remove Mr. McCullagh? A. I didn't say a word to him about it.

Q. Who did? A. I don't know.

Q. He evidently knew what was wanted? He acted as though he did? A. He did a very proper act.

Mr. Moss—Oh, yes; of course.

The Witness—And if Devery is a man like McCullagh, he ought to be kicked out, too.

Q. Is he? A. I don't know.

Q. You are the chief of the city, and the chief of police—  
A. I can't find out.

Q. You cannot find out? A. No.

Q. Have you tried to find out? A. I observed generally, yes, the best I could.

Q. Are you satisfied with his administration—you, the chief executive of the city? A. I think the city is in a more orderly condition than it has ever been in my memory.

Q. You do? A. Yes, sir.

Q. And all the laws are better enforced now than they have been within your memory? A. Yes, sir; I think there are a few harlots in town, and there is a lot of liquor sold, as there is all over the State. Ask this gentleman. Faro banks are wide open in Albany. He can get liquor in that town better than in any town in this State.

Q. You are addressing a committee in which three members are residents and citizens of your own city? A. Ask him about the dive up there where they have acting.

Q. Are you serious now? Are you seriously occupying your position as a witness and as the mayor of the city? A. Yes, sir; I am.

Q. Please remember. I ask you again: You have said there are a few harlots. Have you ever been solicited on the streets? A. Oh, in days gone by, when I was a young fellow, yes, sir.

Q. In your term of office? A. No.

Q. Never have been? Do you know that we now have male harlots thronging the streets, who have their peculiar places of resort, which can be found as easily as any saloon can be? Do you know that? A. No, I do not.

Q. You never have heard of that? A. No. I know there are whores in every big city in the world.

Q. But what do you think about the male department of that industry that has become so large in the city of New York in the last two years? A. I know nothing about it. All I know about it is what occurred in London a few years ago. That is all I recollect about it.

Q. You never heard of it in the city of New York? A. No, sir.

Q. How is that? A. They didn't indulge in that when I was a boy.

Q. What do you mean by that? A. It was not going on then.

Q. What has that got to do with the condition of New York now—your knowledge of the condition of New York now? A. My knowledge of the condition is as I observe it, as I pass through.

Q. What has the condition when you were a boy got to do with the condition now, while you are mayor of the city, for the last two years? A. I think those boys do now what I did when I was a boy.

Q. You do? A. Yes, sir; I don't think society is any worse than it was then.

Q. I did not think that you meant we should draw any inference from your probable course of life, and I am very sorry if you meant we should. I conceive this matter to be too serious, and on too high a plane of public morals to deal with in any such way as that. A. Put a question. Ask a question and I will answer it.

Mr. Moss—I am surprised that the mayor should discuss things in that way.

The Witness—You are morbid about conditions of crime.

Q. It would be better for us if the mayor were a little more so. Now, Mr. Mayor; you have limited your belief about the conditions of New York to a few harlots and a few open saloons on Sunday. Are there any poolrooms in New York? A. I have never seen any since I have been mayor.

Q. Of course not; but are there any? A. I think very likely.

Q. How many do you suppose there are? A. I haven't the slightest idea. I know that a man who is specifically authorized



to sell pools on a horse race inside of a fence, don't believe he is a criminal when he comes outside the fence.

Q. Let us see; you think when the law authorizes racing on the track, that if a man sells pools on the races he is not a criminal? A. No; I do not. I say he don't think so.

Q. What do you think? A. He don't think he is a moral criminal.

Q. Do you think he is a moral criminal? A. If he violates the law.

Q. Is he a moral criminal? A. He ought to be punished.

Q. Is he a moral criminal? A. He ought to be punished.

Q. You are not certain about that? A. I don't know; you will have to ask him.

Q. Can you answer that question? A. I don't know whether he is or not.

Q. Have you any judgment on that? A. Form another question.

Q. Have you any judgment on that? A. I don't know.

Q. Do you think any man who violates the statutes of the State is a moral criminal? A. I think there are some statutes that a man does not consider. Assault and battery—there is a statute against that, and yet if a man insulted me and I knocked him down, I don't think I would have committed a moral crime.

Q. What about the crimes that take from clerks and young men the earnings, or rather, the money which they get from their employers, and cause them to be defaulters? What do you think about that kind of law violation? Is there any moral side to that? A. I don't think gambling does anybody any good—those that participate in it, and those that don't. I agree with you there. We never had gambling authorized by the statutes.

Q. Have you any idea how many poolrooms there are in the city of New York? A. I don't know that there is a single one here.

Q. Did you ever know Mr. Mahoney? A. Yes, sir; many years.

Q. Thomas A. Mahoney? A. Yes, sir.

Q. Did you ever have any business dealings with him? A. Yes, sir; I had some business dealings with him about ten or twelve years ago.

Q. In a corporation? A. Yes, sir; in an enterprise in Texas.

Q. Have you had any land dealings with him? A. Down there, yes, sir. That is, I had dealings, that he owned stock in a corporation that I did, and we both put up our money and lost it.

Q. And you were intimate with him as a stockholder, then? A. As a stockholder.

Q. You know him now? A. Yes, sir.

Q. And you speak to him now? A. Yes; certainly; speak to everybody that I meet. I don't—

Q. You speak to him in a friendly way? A. Yes, sir.

Q. You have been interested with him in real estate in the city of New York, have you not? A. No; I think not.

Q. You and Carroll and Mahoney? A. No.

Q. Up in Harlem? A. No.

Q. Anywhere else? A. Nowhere except in Texas, and then that was in a corporation. He owned stock in a corporation and I owned stock.

Q. That terminated ten or twelve years ago? A. Yes, sir.

Q. When did you last see Mr. Mahoney? A. Every few days.

Q. What do you see him about? A. I don't see him every few days; I meet him once in a while on the street.

Q. What do you see him about? A. Not about any business at all. I don't see him except to meet him in the street.

Q. He lives in Fifty-first street. How do you come to meet him in the street? A. The last time I saw him I saw him in the Democratic club.

Q. When was that? A. Some day last week.

Q. Who was he talking with? A. Talking to me.

Q. Did he tell you he had been subpoenaed to attend here as a witness? A. No, sir.

Q. Was the testimony before this committee, or the proceedings before this committee at all mentioned? A. No.

Q. How many times have you met him in the Democratic club? A. That was about the only time I did, I think.

Q. Have you never heard that your friend Mahoney is the chief of the greatest poolroom syndicate in the city? A. I knew he made books on race tracks.

Q. Where? A. On all the tracks I have seen him.

Q. Where were those books made? A. I can't recollect. In every track that I have ever been to—Saratoga—

Q. No. But did you know that he was making books on the race tracks, in New York city? A. No; I did not.

Q. Did you know that he was running rooms and receiving bets in those rooms in New York city? A. No, sir; I did not.

Q. Did you never hear of the public rumor that Mr. Mahoney and Mr. Carroll and Mr. Sexton were jointly interested in pool-rooms? A. Never.

Q. Never heard that? A. No, sir.

Q. You never heard any one suggest that a gentleman named Van Wyck was interested in that business? A. Never. Do you mean me?

Mr. Moss—I mean you.

The Witness—Absolutely false.

Mr. Moss—I ask you if you ever heard the rumor?

The Witness—Never; never heard the rumor. Did you hear the rumor?

Mr. Moss—Yes.

The Witness—Will you tell me who told you?

Mr. Moss—No.

The Witness—Will you bring him here and let me cross-examine him?

Mr. Moss—No; not now. Perhaps I will later.

The Witness—I will be much obliged to you if you do.

Mr. Moss—These things are not easily proven. The question of intent comes in, and it is not always easy to prove them.

The Witness—I will admit the intent if you will show that I had any connection with any illegal calling anywhere in the world.

Mr. Moss—I stand here distinctly disclaiming any intention of charging you that you have.

The Witness—Or in the civilized world. You know I am not.

Mr. Moss—If you say you are not, let it stand that way.

The Witness—You know I am not, and when you asked that question you know you wanted to create the impression that I was interested in a poolroom.

Mr. Moss—You associated yourself with Mr. Mahoney in your own testimony, and if they—

The Witness—I demand that you bring the evidence here to show that I am connected with a poolroom in this city, or any

other city in the world, or anywhere else, and I think the chairman ought to enforce that proof here. I am entitled to some rights.

The Chairman—You have declared that you are not most emphatically and you certainly know.

The Witness—You ought not to allow your counsel to try to create the impression—I do not mean upon the minds of the people of this city, because they know I am all right—but of the civilized world, that the mayor of the city of New York is interested in poolrooms. I think it is your duty to make him prove it.

Mr. Moss—I want you to see the reasonableness of this thing in your own mind, and you ought to be able to see it. If you are around in the sessions of this committee for a couple of days, you will learn something that evidently you do not know about now.

The Witness—I know that you know that I never had anything to do with an illegal calling in my life.

Mr. Moss—Wait.

The Chairman—We will get this thing straightened out.

The Witness—Are you going to let him call the man here to prove that I, the mayor of New York, am connected with poolrooms and illegal callings?

The Chairman—No such charge has been made.

The Witness—Yes, sir.

Mr. Hoffman—It is, by innuendo, and I insist that that be done—that Mr. Moss be directed to produce the person here from whom he heard this rumor. If we are here as a committee of the Legislature to sully the characters of honorable men by innuendo, I want to get upon the record that that is absolutely unfair and un-American.

The Chairman—The sergeant-at-arms will clear the room if there is any demonstration made with regard to any testimony or statement made here.

Mr. Moss—I do not think it lies in the mayor's mouth to take that position with reference to myself, or with reference to anything that I have said, and certainly not after his statement about Mr. Hamilton, this morning.



The Chairman—The mayor has made statements on the stand implicating the honor of gentlemen who are equally well known as himself, and I asked him plainly on what he based that, and he stated nothing except common rumor. He is now on the witness stand and is asked the direct question whether he is connected with any institution of the kind you have referred to. He has specifically stated and denied that he is. He has stated emphatically that he is not, and that goes forth to the civilized world.

Mr. Hoffman—I desire to say, as a member of this committee, that it has been the policy of the counsel to the committee to, by questions, charge by innuendo and indirection and assault men's character; men holding high position in the city and State government, have by these questions been asked whether they run poolrooms or are interested in getting whiskey into disreputable houses, to sell, and questions of that character. The proof upon those matters has absolutely failed; and I insist, as a member of this committee, that we are all American citizens and believe in the right and in fair play. The only thing a man has in this world is his character, and we ought not to attack men's characters, unless we prove before the committee in advance, the statements that are made. I insist from this time out that that line of policy be followed out.

Mr. Wilson—Let me ask a question. Do you not think the word of the mayor will go as far as common rumor?

Mr. Hoffman—The mayor has given facts. If Mr. Moss will give the same kind of facts that the mayor of the city of New York has given—

The Witness—The mayor is no more than any other citizen. I do not ask any right as mayor.

Mr. Hoffman—It has been stated that a certain firm was black-mailed. If that rumor can be traced, the proof is susceptible of being obtained. Canary & Lederer are a reputable firm in New York city, and they can be placed upon the stand to deny or affirm the statement. But Mr. Moss refuses to disclose where he got that rumor from; and I insist, as a member of this committee, if we are to be fair, if this is not a partisan investigation in the interest of only one political party, for the purpose of sullyng the reputation of honest and respected men in this community,

that this matter of idle rumor be not considered by this committee, unless we have the proper evidence to present.

Mr. Costello—The mayor makes the statement that it is not so, and I believe the mayor. What is the use of this talk.

The Chairman—Mr. Moss has distinctly disclaimed any knowledge of this kind. The examination will proceed.

Mr. Moss—Just one word here——

Mr. Hoffman—It would lead thousands of people throughout the United States and the world to assume——

Mr. Moss—Just one word. Why was not the honorable assemblyman as quick to come to my relief when a witness on the stand gave public rumor, as he had understood it, regarding my service on the committee?

Mr. Hoffman—I do not recall any such evidence.

Mr. Moss—You heard it.

Mr. Hoffman—If there had been I certainly would have come to your relief.

The Witness—I gave you my authority, and you ought to give yours.

Mr. Clarke—May I make one suggestion? In view of what the honored member of the committee has suggested, this is not a criminal trial. Evidence of the force and effect adducible in a criminal trial, where there has been a preliminary examination before a magistrate, or indictment by the grand jury, when the prosecuting officers know exactly what the crime is and what the proof is to sustain it, can be produced and the questions asked——

The Witness—He knows who told him. He ought to be made to tell me or to call him here.

The Chairman—Let us proceed in an orderly and respectable manner. This is a body of the legislature, and entitled to as much consideration as the executive department of the city of New York.

The Witness—Exactly.

The Chairman—Let us go on in an orderly manner.

Mr. Clarke—This is an investigation, an inquisition, with evidence to be obtained from hostile witnesses, evidence to be obtained upon lines which counsel believes, but evidence which can only be obtained by inquiry; and therefore the suggestion that

only competent proof, admissible in a court of justice, should be offered, is, of course, wide of the mark.

Mr. Moss—Before I ask the next question this thing ought to be fairly understood, and why I was led to ask that question. I think I did the mayor a service. It is in my mind that I did.

The Chairman—I agree with you.

Mr. Moss—I wondered why such rumors had reached me, and I believe now that they had their origin in the fact that has been observed by people that the mayor had an acquaintance with Mr. Mahoney; and if I had let this matter rest with the mayor's statement of an intimate knowledge of Mr. Mahoney, and of his meeting him at the Democratic club, without giving him the opportunity to deny that rumor, the papers—if not the papers, the public mind—would have been full of an insinuation which now he has denied. I think I have done him a service.

The Witness—I want to say this. It is some nine or ten years ago, before I was on the bench. There was a town started in Texas, and an iron mine, and some bankers in Wall street—I was a lawyer; and they sought capital, and Mr. Mahoney and a good many other people in New York owned stock in that company. I owned stock in it. We all lost what we put in. And the fact that he owned stock in a company that I did certainly is no evidence for you to put such a question here before the public, as to ask me whether I am——

Mr. Moss—Not simply that, but your meeting him frequently and knowing him intimately.

The Witness—Certainly. I meet everybody.

Q. Now, I think we understand each other a little better. We were asking you whether you had known anything about the existence of poolrooms. Have you not seen detailed, specific statements in the newspapers frequently, making positive allegations and giving the names, numbers and places? A. I don't think so.

Q. (continuing.) Where poolrooms are operating and have been operating for months? A. Oh! It has been discussed ever since I can remember.

Q. No; but during your administration—statements that hundreds of poolrooms existed; statements that the poolrooms were contributing to the raising of funds of money; statements that

poolrooms were running at particular places. Have you not seen them? A. I don't know.

Q. They have not been brought to your attention? A. No.

Q. Has it come to your knowledge that gambling houses in large numbers have sprung up and are being operated in the city to-day? A. I don't know that.

Q. You have not heard that? A. No, I haven't heard that; but I assume that there would be some, you know, in a large city. They are all over the world.

Q. Do you know whether or not the new chief of police is making a successful administration of his office in these matters? A. That I don't know, anything about police matters. I know the general condition of the city is pretty satisfactory to people. We would never know that there was a Tenderloin unless it was brought out on this examination.

Q. Is that so? A. No, sir.

Q. That is really so, is it? A. I don't know it.

Q. If there is anybody that should know it you should, of course. And you do not know that these matters have been discussed in the newspapers, regardless of their political affiliations, broadcast, broadsheeted, for over a year past? A. I know you have been discussing them ever since I recollect.

Mr. Moss—No, I am not talking about myself, but about the newspapers, on their own account.

The Witness—You get a great many interviews in the newspapers.

Q. Have you seen many with me on those matters in the newspapers? A. I don't know about that. I see them—once in a while an interview. You generally do most of your work through the newspapers.

Q. If you knew of the existence of such places would you take any steps? A. I would order them closed.

Q. And supposing they were not closed? A. I would come pretty near removing somebody.

Q. Pretty near removing somebody. What do you mean by that? A. I would try them.



Q. Do you see the advertisements in the newspapers? A. No, I do not. I haven't got time for advertisements.

Q. Do you see the immoral advertisements in the Telegraph every morning? A. I see those personals in the Herald.

Q. What investigation have you made of those personals? A. None whatever.

Q. Why not? A. Because they have been doing it ever since I was a boy. I don't want to stack up against the New York Herald. You will have to take that contract.

Q. Why not? A. Because I don't know that they violate the law.

Q. Do you consider those advertisements immoral? A. I think some of them, yes, sir.

Q. Why do you not bring them to the attention of the proper authorities? A. I don't know that I have got the power to do it. I don't know that it is a crime.

Q. Is that a question of intent, as the other was? A. I don't know that it is a crime.

Q. What about the advertisements in the Morning Telegraph, the Tammany newspaper? A. I never see that paper.

Q. You never see it? A. No, sir.

Mr. Moss—I advise you to look at it. I presented a copy to Mr. Devery, and he made some orders.

The Witness—That is only a Tammany organ in some people's imagination. We have nothing to do with it; none in the world.

Q. What do you mean by "we?" A. The Democratic party.

Q. You appreciate that the Democratic party is what they call Tammany? A. No.

Q. Is that what is responsible for your administration? A. Nobody is responsible for my administration, except myself.

Q. Is that what you meant in your report last January, that the great party was the sponsor for yourself? A. I meant that if I disgraced the office the party would be turned out. It would. If I was connected with any gambling saloon in New York I would be driven out of town. If I was the mayor and did that I ought to be hung.

Q. You told Mr. McCullagh that he lied when he said that he did not know the politics of police officers, and that was because you judged that any police—— A. You have been all over that.

Q. (continuing.) You judged that any police officer in his position should know it. Do you believe that the present chief of police knows the politics of all his officers? A. Not at all, but those with whom he intimately associates, yes, sir.

Q. Do you believe that he knows the politics of all his officers, including the captains? A. I don't know. He does of all those with whom he is intimate, I suppose. I do.

Q. It is a question of intimacy? A. It is a question of familiarity. If you never see a man you don't know anything about him.

Q. When Mr. McCullagh said—— A. I called them by name. I took each one.

Q. How did you know that he was intimate with them all? A. A man as chief must know something about his inspectors.

Q. Do you suppose that the present chief of police knows the politics of all his officers, as you mentioned to Mr. McCullagh? A. I don't know about all. He ought to know some.

Q. When he says he does not know all, is he telling the truth? A. He said he did not know any. I called them by name.

Q. Did he say he did not know their politics as chief, or as a man, or how? A. He said as a man he did not. He did know whether they were Democratic or Republican.

Q. Then you went to work and told him the proportions of the political division of those men, did you not? A. I read it off, yes, sir. You ought to know something about it. You were in the board.

Q. Never mind. I ask you. You told him what percentage of the inspectors were Republicans? A. I can't remember now; it was all in the papers.

Q. Seventy per cent? A. I don't know. I can't remember.

Q. You told him the percentage of Republican inspectors, did you not? A. I told him the percentage.

Q. And you told him the percentage of Republican captains, did you not? A. Yes, sir.

Q. Then you asked him, "Do you call that bi-partisanship?" did you not? A. I don't recollect that.

Q. Did you not comment upon that being a bad kind of bi-partisanship? A. No; I think I said that the old board, before I came in, had appointed 1,200 patrolmen, and that I had heard that over a thousand of them were Republican, and that they came from every assembly district in the State, and I said if that is so it is a pretty easy thing to do the civil service.

Q. Did you not speak about the bi-partisanship as applying to the higher offices? A. I don't recollect. You read that interview.

Q. You were discussing the chief of police and forming your judgment about his continuance there? A. No, I was not. I didn't remove him.

Q. What did the chief of police have to do with the politics of the subordinate officers, in your mind? A. He knew it. He ought to know.

Q. Suppose it was just as you think, what had he to do with it? A. It was impossible for him not to know it.

Mr. Moss—Suppose it was so?

The Witness—I didn't remove him for that. I didn't remove him at all. They removed him.

Q. Why should you have discussed that with him? Could he have made it different? A. Because I thought he was a fakir.

Q. Is that another reason why you removed him? A. I removed him because the police board removed him and I approved the resolution.

Mr. Moss—I am asking you as the executive of the city. I ask you what you mean by a "fakir?"

The Witness—I mean a man who has a false face, that presents a very fair front, and is insincere at heart. I never knew a coward that was not insincere.

Q. And that was what you meant when you said you thought he was a fakir, was it? A. Yes, sir.

Q. Did you remove Commissioner Hamilton and Commissioner Phillips because of what you considered to be a disproportion in the political representation in the police department? A. No; I

put Republicans in their place, although I was not bound to under the law; but I obeyed the spirit of the law. The law did not compel me to do it, but I did it.

Q. Why was it that that apparent disproportion was uppermost in your mind, in your discussion of these matters with McCullagh? A. I thought it was very strange that while you and others were in that board, nobody seemed to get there except Republicans.

Q. Have you got figures to show? A. No, I say I heard that. I don't know that that is so. I don't know that that is so, but I heard it.

Q. Then what you were stating to Mr. McCullagh was simply what you had heard? A. Yes, sir; but I asked him name by name of all these gentlemen, "Is he Republican or Democratic?" and he said, "I don't know." I run down the list, and he did know.

Q. You became very angry with him? A. Sometimes I get a little hot.

Q. You are sometimes reported that way? A. The papers sometimes report me as being hot when I am very cold, sometimes; but I have got no fault to find with the papers.

Q. You have an opportunity to show the falsity of that criticism. Were you entirely satisfied with Mr. Devery when he was appointed? A. Oh, I didn't know, and I don't know now.

Q. Had you gone into Mr. Devery's record at all as a police officer? A. No; I had nothing to do with his appointment.

Q. Were you not interested in his appointment? A. Well, I don't dictate to the departments about the appointments.

Q. Were you not interested in it? A. No; not at all. He appointed some—it don't make any difference to me.

Q. Did you ever know that when he was appointed a serious charge was remaining there untried and undisposed of? A. I think I know. It is pretty hard to remember. I think he had been indicted and acquitted. Isn't that true?

Mr. Moss—That is true. Did you know also that there was a charge pending in the police department itself, which was undisposed of?

The Witness—No; I did not. The tangle of the old board was so great that it would make me cross-eyed to follow it.



Q. Did you know that the appointment of Mr. Devery was the first act done by the new board after the retirement of Mr. McCullagh? A. I don't know about that. I think they did it the same day. That is, they assigned him. They didn't appoint him, you know. They designated him.

Q. You know that? A. That, I think, was all out in the afternoon papers. It was pretty quick work that day, you know.

Mr. Moss—That is what we thought.

The Witness—I got ahead of that injunction.

Q. Did you know that it was stated in the papers for weeks before this happened that Mr. McCullagh was to be retired, and Mr. Devery was to be made chief? A. Oh, I don't know that; but those newspapers write those articles so as to contradict them, you know.

Q. How do you know it? A. They manufacture them. Ask some of those boys. They will tell you. I have helped them make up the story.

Q. You have helped them make up the story? A. Yes. That is the way they make their living. I don't blame them. I would do the same if I was in their place.

Q. You would? A. Yes, sir; I would make a living.

Q. You would make up stories, which is what they do? A. They manufacture stories. There is no harm done, writing these stories.

Q. That is telling fibs, is it not? A. They have got to do it. They can't make a living unless they do.

Q. You would do it if you were in their place? A. If I was a newspaper man I would make a living.

Q. By telling fibs? A. Yes, I think so.

Q. How is it now? A. I am on the stand.

Q. Where do you draw the line of demarkation in your case? Is it not just as incumbent upon a young man in a newspaper office to be truthful as it is in the man who is the mayor of the city? A. He can't make a living. He has got to go out of the business. He can't make a living without it.

Q. Do you mean to make that charge and insinuation against the newspaper men of New York, that they are all liars? A. I

mean to say they make up stories one day and contradict them the next; and I am a pretty good friend of them, too, and some of the boys know I am telling the truth about that. I have helped them.

Q. That is, you have helped them to perpetrate a falsehood in the newspaper? A. When we were down at Lakewood we would make up a slate for them to publish the next day. They guessed every man, I think, in the Democratic party that was going to be appointed in these offices.

Q. Is that the only way you have helped them? A. I think so; yes, sir. I help them a good deal when I get a chance. I have got no grievance against them at all.

Q. How did you come to select Mr. Hess? A. I had known Hess about twenty-nine years, I think; and I knew him quite intimately when we first entered politics. He was a dyed-in-the-wool Republican, and never has been anything else, and ran for Assembly in the Assembly district where I lived, and held office by virtue of being a Republican, and had been quite successful holding it, too, because he held it a long while. He was a machine man, belonged to the regular organization; and he had registered that year, and declared his intention, and I felt that he was a thorough born organization man; that he was a Republican; and at the same time I knew him to be a worthy gentleman, and he was a friend of mine, and I was glad to do a good turn for him.

Q. You know that Mr. Hess has held all of his appointive offices under Democratic administration, do you not? A. Well, I think he has gone in under that bi-partisan business, though.

Q. In 1877 he was school inspector? A. I didn't know that.

Q. Under Democratic appointment? A. Well, he is a good fellow.

Q. In 1879 he was the commissioner of charities and corrections, under Democratic appointment? A. You know they had that old rule then, giving the Republicans one.

Q. In 1885 he was a sub-way commissioner under Democratic appointment? A. At the time he was appointed charity commissioner there was a combination by which Edward Cooper had been elected mayor, and the Republicans supported him and—

Q. In 1894 he was a member of the board of electrical control, under Democratic appointment? A. I think so.

Q. In 1898 he was a police commissioner under Democratic appointment? A. That is when I appointed him. Oh, yes.

Q. So that is what you call "a dyed-in-the-wool Republican?" A. That is right.

Q. Always manages to stay in office in Democratic years? A. Well, he has always been a Republican.

Q. He was close enough to you for you to be satisfied that he would represent your wishes, and the wishes of your organization? A. No; I made no request of him at all.

Q. Why did you not make any request? A. Because I never do.

Q. Did you know that he would vote to retire McCullagh? A. No; I did not.

Q. That is what you wanted done, was it not? A. I didn't say I wanted it done.

Q. Did you not want it done? A. I don't know whether I did or not. I didn't tell anybody I wanted it done.

Q. Who did tell it? A. I don't know.

Q. It is curious that he should have known it, is it not? A. No; it was not. The whole thing had been discussed in the newspapers.

Q. That is what I was trying to get you to admit a little while ago. The whole matter was a matter of newspaper discussion? That interview with McCullagh had been published? A. Yes, sir.

Q. And it was all through the prints that Hamilton and Willis would have to go, that McCullagh would have to go, and that Devery was to be the new chief, was it not? Long before it happened? A. No, I don't know anything about that.

Q. So that the man that you selected knew exactly what the program was, from following public events? A. That I don't know, what he knew, and what he did not know. I appointed him.

Q. Was the matter of poolrooms mentioned at all at the time that these changes were pending? A. No, no.

Q. Did you have any talk with Mr. Timothy D. Sullivan about the matter? A. No, sir; none whatever.

Q. Any talk with Mr. Sexton about it? A. No; I talked with none of them about it at all.

Q. Did not the leaders of your organization know what you were doing? A. I don't think they did. I didn't let anybody know, because——

Q. While these matters were being discussed in public, in the newspapers, did not leading members of the organization mention that matter to you? A. There wasn't anybody thought I was going to do it. I told you that.

Q. How was it Mr. Freedman sent a cable to Mr. Croker in Europe on the Monday prior to this action? A. I don't know that he did send one.

Q. You do not know that he did? A. No. What was his cable? I would like to hear it. I never saw that. I never heard of that before.

Q. A cable telling of the interview between you and McCullagh? A. Have you got it there, and can you read it?

Mr. Moss—No, I have not got it here.

The Witness—Give me the substance of it, will you?

Q. You say you never heard of it? A. I never heard of it.

Mr. Moss—Then there is no use giving you the substance of it.

The Witness—I suppose he wanted him retained. He was his friend.

Q. Freedman was whose friend? A. Mr. McCullagh's.

Q. How do you know that? A. That is what I heard.

Q. How do you know that? We would like to understand that? A. I used to see them very close together in Delmonico's café, hobnobbing at night.

Q. Was that the reason why you thought McCullagh was a coward and a fakir, as you say, and a man not to be trusted, because he was with Freedman? A. No, I didn't say that. That is not the reason.

Q. Are you a friend of Mr. Freedman's? A. I know him intimately, yes, sir; well.

Q. Intimately and well? A. Well, I can't say; I have not known him as long as I have these other people. Talking about Carroll, I have known Carroll ever since he was a boy.



Q. Where did you know him as a boy? A. I knew him up in the Nineteenth ward, some thirty years ago. He went to school there.

Q. You did not know him when he was employed on the Bowery, did you? A. I didn't know he was ever on the Bowery. I knew he was on Fourth avenue in a grocery store. Is that the point?

Mr. Moss—That is not the point.

The Witness—I didn't know he was ever on the Bowery. He might have been though. He was in Campbell's grocery store in twenty something and Fourth avenue for a good while. I am extremely intimate with him, and have a very high regard for him.

Q. Do you talk very much with him about public matters? A. Well, I don't know. We may once in a while have a conversation. I don't know what we do talk about. We talk a great deal. I see him most every day, and have for twenty-five years.

Q. Where do you see him? A. At his house and down town, and at the club; go to the theatre with him once in a while; go to take dinner with him once in a while Sunday night. I have been very intimate with him for twenty-nine years.

Q. Then your association with him is not the chance association of meeting him at the Democratic club; but you go to his house? A. Oh, yes; I go to his house.

Q. This a matter of daily occurrence? A. I don't go there every day.

Q. You know he is next to Mr. Croker in the organization? Mr. Croker has said so, and he has said so. Do you know that? A. No, I don't know what his exact position is. It is quite conspicuous, though.

Q. What position is he now holding in the organization? A. I don't know exactly what he is doing now.

Q. Have you talked with him over the matters of appointment? A. Everybody has recommended people to me, including Carroll.

Q. Is not that a frequent matter of conversation with Mr. Carroll? A. Well, where you see a man intimately for twenty-nine years you talk over pretty much your whole life, when you meet him. I know him as intimately as I know my own brother. In fact, I see more of him than I see of my brother.

Q. His opinions have great weight with you? A. I think he is a man of high character and integrity and good judgment.

Q. You are an organization man, are you not? A. I have done a good deal of fighting against them, you know.

Q. But you are an organization man now, are you not? A. No. I would not go with the organization if the organization was wrong, no.

Q. Have you found the organization wrong since you have been mayor? A. I don't know. They couldn't make me do anything wrong, no matter what it is.

Q. Do you mean to have the insinuation go out, by your partial answer to the question, that there may have been things wrong in the organization for the last year or two? A. They may have done things that I didn't agree to.

Q. Have they? A. I don't know. I have been opposed to them a great many times. I don't know whether you know it, but I supported Theodore Roosevelt for mayor once.

Q. Not this time? A. No. I thought they ought to be turned out, and I helped to do it, but the people didn't think so. I got wrong with the mugwumps. It's no good.

Q. You had a conversation with Mr. McCullagh, in which was mentioned the politics of the various police officers, and you had a conversation with Mr. Hamilton. Were those two conversations pretty close together? A. That I don't know. I don't know which was first. It was along about the same week or two.

Q. Around the same week? A. I think so. I called Mr. Hamilton on the 'phone and told him to come down; I wanted to see him.

Q. How long before the 19th of May was it? A. That I don't know.

Q. How long was it before the removal of Hamilton and Phillips? A. I think it was a day or two. I don't know.

Q. A day or two? A. I don't know, though.

Q. Then on the nineteenth of May—— A. I removed them on a Saturday morning.

Q. On a Saturday morning you removed Phillips and Hamilton? A. Yes, sir.

Q. And on that very same day you appointed Mr. Hess, did you not? A. Yes.

Q. And you know that Mr. Hess promptly met with the board, do you not? A. He must have.

Q. Promptly acted? A. Yes, sir.

Q. When did you tell Mr. Hess you were going to appoint him?

A. That morning, I think. I sent for him.

Q. You sent for him? A. Yes, sir.

Q. And then he went promptly to headquarters, and they had a meeting, and retired Mr. McCullagh? A. Their records will show all that.

Q. Is that your recollection? A. I can't say what is my recollection. They have got a record there; they have got the minutes.

Q. You have already said it; I am summarizing your own testimony. They had a meeting on the day you appointed Hess, and retired McCullagh? A. I think so, but the minutes will show that.

Q. Did you not act on it? A. I acted on it as soon as I could; I told you that.

Q. You acted upon the retiring of McCullagh on the very day that you appointed Hess? A. That is my recollection; but I would rather have the minutes say, than by recollection.

Q. You did not make the minutes? A. No; the police board did.

Mr. Moss—I ask you for your recollection.

The Witness—That is my recollection.

Q. Their minutes could not refresh your recollection, as you did not make them? A. That is my recollection.

Q. And then on the very same day as you recollect it, and I think you so stated, Mr. Devery was made acting chief? A. They had to make somebody chief.

Q. And he was acting. Soon after that you appointed another commissioner? A. Afterwards.

Q. Afterwards? A. I appointed Mr. Abell.

Q. How did you come across Mr. Abell? A. Mr. Lauterbach told me Mr. Platt would like to have him appointed.

Q. Was that the sole reason for appointing Mr. Abell? A. No; I made inquiries.

Q. What inquiries did you make? A. I sent over to Brooklyn, and went over there myself, and talked about it, found out who

he was, and thought if I would find out he was a reputable man I would give him the appointment.

Q. That was mentioned by Mr. Lauterbach in person? A. Well, Mr. Lauterbach told me that Mr. Platt would like to have Mr. Abell appointed. First he was for Mr. Dutcher, and I told him I would be delighted to appoint Mr. Dutcher; I knew Mr. Dutcher very well, and knew he was a competent man, but he would not take it, and I appointed Abell.

Q. You looked upon Mr. Platt as a man proper to speak for the Republicans in a bi-partisan body? A. This was not a bi-partisan matter. I thought he was the "boss" in the Republican party; what he said they all did; when he took snuff they all sneezed.

Q. Is that what you mean? Do you consider that is implied in the functions of a "boss?" A. I don't mean that in any offensive sense. I have a very high regard for Mr. Platt.

Q. Very well. I wanted to get your statement of the matter and how you were influenced. Do you consider that that is the condition in a political party, between the members of the party and the "boss" as you call him, that they must move when he moves? A. I think he is as reputable in a partisan way—he is the most potential man in the Republican party in the State of New York.

Q. In the same way, do you say as Mr. Croker is in your organization? A. In Manhattan and the Bronx.

Q. And you look upon him as the man to listen to when you have to consider the Republican side? A. No; not when I have to consider the Republican side.

Q. Why? A. Because I found out, just as I told you. Mr. Lauterbach came to me and told me Mr. Platt would like to have me appoint Mr. Dutcher. Mr. Dutcher would not take it, and then he came with Mr. Abell, and I appointed him. I said I would be delighted to appoint Mr. Dutcher.

Q. Do you mean to say that your appointments of the Democrats of the police commissioners were not made after hearing what the leader of your organization had to say? A. I claim that when I picked out the Republicans, that I ought to consult them to some extent. That is, I ought to get a machine man; some



man that was really identified. Not one of those mugwump fellows that run away as soon as the cloud comes over, but somebody that stood by the Republican party. I took the trouble to look up about Mr. Hess, to see that he had declared at the primary.

Q. Did Mr. Hess and Mr. Abell stand by the Republican party?  
A. Stood by it.

Q. When they retired McCullagh? A. No; I don't think they stood by it then.

Q. When they made Devery chief? A. When they retired McCullagh they hurt the Republican organization. There is no doubt about that.

Mr. Moss—That is what you meant to accomplish?

The Witness—No; I wanted to get rid of what I considered to be an incompetent man.

Q. How does that agree with your idea of appointing a Republican selected by the head of the Republican party? A. No; I inquired about that. I would not have appointed them if I didn't think they were all right. So I appointed Mr. Murray, and—what is the name of this alderman? Aqueduct commissioner? Windolph. They were appointed because Mr. Quigg recommended them.

Q. Coming back to your own appointment of police commissioners representing the Democratic party; do you mean to say that you did not consult the leader? A. I talked with everybody I knew.

Q. Did you not talk with the leader? A. I talked with all of them.

Q. Did you not make those two appointments in conformity with the wishes of the organization, as you understood it? A. No; I did it of my own motion. I made every appointment myself. I told you that. If they didn't suit me I would not have appointed them; I tell you that, for nobody.

Q. Why did you defer more to the Republican organization, in the appointment of police commissioners, than you did to your own? A. I knew more about my own; I knew who were good party men on my side.

The Chairman—An allusion was made here in regard to the percentage of Republicans and Democrats on the police force. I think it was stated that you heard that there were seventy per cent. of the captains who were Republicans.

The Witness—I don't know that; whatever that list was.

By the Chairman:

Q. Did you make the statement that was read to-day? A. I made the statement that was read over. I wrote it down and then read off from this paper. Then I read off of that paper. I think it was all in the newspapers at the time. I read it off and repeated it.

Q. And was that the cause of the action you took—— A. No.

Q. (continuing.) To have Mr. McCullagh removed and Mr. Devery appointed? A. No; the fact that he told me that he did not know the political complexion of the party who appointed him, only went to prove to me that he was a liar, you know. If you were to tell me you did not know the political complexion of the gentlemen who sit on this committee, I would not believe you.

Q. The reputation of the gentlemen here is quite different, because their political affiliations are recorded by their votes? A. If they hadn't recorded by their vote——

Q. You call a man a liar because he says he does not know the politics of the officers under him? A. No.

By Mr. Moss:

Q. You think it was his business to know? A. No; I think he knew.

Q. Do you think it was his business to know? A. No; I don't think it was his business, whether he knew or did not know. Only it showed that he was telling an untruth. But he did know it and said he did not.

Q. Did you make a contribution to the funds of your organization, the Tammany organization, at the last election? A. Not a cent.

Q. At the gubernatorial election? A. Not a penny.

Q. Do you know that contributions are made by the officers of the government? A. Not that I know of.

Q. Did you make any contribution at the time you were running for mayor? A. Not a dollar.

Q. Was any made for you? A. I say not a dollar. I did spend less than four or five hundred dollars. It is all in the statement I filed.

Q. Was nothing paid for you by friends? A. I don't know. They must have raised money to run the campaign, but not a dollar was given to me. A good many people sent me money and I always returned it; never took a dollar from any living soul.

Q. Was no money paid for you or by you, prior to your nomination? A. Not a cent.

Q. Nothing in connection with the nomination at all? A. Not a dollar on earth.

Q. Was any money paid by you at the time you were nominated for judge in the City Court? A. Yes, sir.

Q. How much? A. That I can't recollect, but that statement will show. It was filed in the county clerk's office.

Q. Was it all in the statement? A. All in the statement, yes, sir.

Q. Was any money paid by friends of yours, outside of the statement? A. Not that I ever heard of.

Q. Prior to the election? A. No.

Q. In connection with the nomination? A. No, sir, I was re-nominated.

Q. The original nomination, then? A. You go back to the original nomination. You know the law was not in force about filing the certificates. I did pay an assessment then, and so I did the second time, but I don't remember what the second was. I spent a good deal of money in that first race, because I had a pretty hard race. I then believed in the power of the press. I spent about \$5,000 among the newspapers.

Q. Did you spend it yourself, or did you give it to the organization? A. No, I spent it; put cards in the newspapers.

Mr. Moss—I am not speaking about that, but about a contribution to the organization.

The Witness—I did give a contribution to the organization.

Q. How much did you give? A. That I can't recollect, but that would not appear in the file record. I think \$3,500. That is my recollection.

Q. Thirty-five hundred dollars was what you gave to the organization? A. I think so.

Q. Was that before your nomination? A. No, a long while after it.

Q. There was not any money given before you were nominated? A. No. I suppose you know that nobody knew I was to be nominated until fifteen minutes before it occurred. No man was more surprised than I was.

Q. After your nomination you made a contribution? A. I made a contribution.

Q. To whom was that given? A. That I don't recollect. The treasurer, I suppose.

Q. Was it in a check? A. That I can't recollect.

Q. Who was the chairman of the finance committee at that time? A. I think it was given to the treasurer, very likely.

Q. Mr. McQuaid? A. That I don't know, whether he was the treasurer.

Q. Was it not given to Mr. Croker? A. No, I never gave Mr. Croker anything.

Q. Never gave him money? A. Very likely it was by check, because there was no secrecy about it at all.

Q. What was the assessment the second time? A. I contributed there, but I can't recollect. That is all on the record. I can't even recollect the amount. I know the first time that they didn't want an assessment from me. They didn't want me to pay anything. They said, "You have got a pretty hard race. You have been nominated for the purpose of trying to win. You have a very hard race." I said I would not run that way; I would not run as a pauper; and must contribute something; and I did contribute, I think it was \$3,500; and then I spent my money in the newspapers.



JOHN B. SEXTON, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am the Manhattan member of the police board, and feel myself specially charged in the police board with the interests of Manhattan Island. I am quite familiar with the city and have been here many years. I know it pretty well. I know its criminal conditions. I make an effort to understand them. I do the best I can to control the police force with reference to the criminal conditions. I consider that, in the discharge of my duties, it is my duty to know what is going on, and to see that the police force attends to conditions of crime. That includes, of course, not only matters of prostitution, to which the mayor referred, but to gambling and excise violations and green goods and everything of that kind. Our board has peculiar charge of the detective bureau. They have got charge of all the bureaus there.

Q. Have you any more charge of the detective bureau than you have of other bureaus? A. Of course they take charge of the detective bureau. The board has full charge in police headquarters.

Mr. Moss—It has charge of the building, of course.

The Witness—Yes, sir.

Q. But what particular function has the board of police with reference to the detective bureau? A. I don't understand what you mean.

Q. Do you not? A. No.

Q. Is there such a thing as a detective bureau? A. Yes, sir.

Q. Has the board of police anything to do with the detective bureau different from the rest of the uniformed force? A. I don't suppose it is any more different.

Q. What is that? A. I don't think so, no.

Q. You don't think so? A. No.

Q. Has the board of police the power to make sergeants of police upon their own will, without examination? A. Yes, sir, they have.

Q. It can make sergeants of police without examination? A. I don't know about that now—the new civil service law. Heretofore, yes, sir.

Q. Heretofore? You mean the bill which passed this last session? A. Yes, sir.

Q. Had it power on the first of January of this year to make sergeants at will, without examination? A. I think they had, yes, sir. I don't think we made any since the first of January.

Q. What authority had they to make sergeants that way? A. We did not make any.

Q. You say they had authority to do it. What authority? A. Well, if there was any vacancies in the board.

Q. If there were any vacant sergeantcies you think on the first of January the board of police had the right to put sergeants in there without examination? A. Yes, sir.

Q. Had it the same right with regard to captains? A. I believe so, yes, sir.

Q. And with regard to inspectors? A. I believe so.

Q. And deputy chiefs? A. I believe so.

Q. No necessity for any civil service examination? A. I don't think so.

Q. But whether there is now or not you do not know? A. I believe there is, since this new bill was passed.

Q. You think there is in the new bill? A. Yes, sir.

Q. But that is the first of any such thing in the department, is it? A. I believe so, since I have been there.

Q. Has the board the right to assign officers and transfer them? A. To make requests of the chief. The chief has that power.

Q. Has not the board any power to make assignments and transfers? A. No. That is the chief's duty. Don't you know that? You were there, were you not?

Q. Have you the power to make detective sergeants without examination, now? A. I am not sure about now. I think they did, though, heretofore. I don't believe they made any detective sergeants since I have been in the board.

Q. Have you ever examined the rules and the law with reference to the appointment of officers in the police force? A. Oh, yes.

Q. Have you ever examined the rules and the law with respect to the detective bureau? A. Yes, sir.

Q. How many policemen are there, patrolmen, in your department?

The Witness—The Greater New York?

Mr. Moss—Yes.

A. I think over 7,300.

Q. How many captains are there? A. Eighty-one, I believe.

Q. How many precincts are there in the borough of Manhattan? A. Thirty-six, I think.

Q. How many? A. Thirty-seven.

Q. Thirty-seven? A. I think that is it.

Q. How many precincts are there in the borough of the Bronx? A. Four, I think. Some substations.

Q. How? A. Four or five and some substations.

Q. How many inspection districts are there?

The Witness—In the borough of the Bronx?

Mr. Moss—In the city of New York.

A. I don't recollect that now.

Q. How many? A. I just can't answer that question.

Q. How many precincts are there in the greater city? A. Eighty-one, I think.

Q. In the greater city, eighty-one? A. Yes, sir.

Q. Do you sometimes sit as the trial commissioner on the trial of policemen? A. Yes, sir.

Q. You have a record for speed in trials, have you not? A. Oh, I don't know.

Q. I saw a statement once that you had tried eighty-one cases in ninety minutes. Was that about right? A. I guess it was, if you saw it.

Q. You are not in the habit of spending more than two hours at trial days, are you? A. No, sir.

Q. And your calendar generally consists of somewhere near a hundred cases, does it not? A. Oh, no, sometimes only sixty and seventy-five. Never had a hundred.

Q. You try sixty or seventy-five cases in the two hours, do you? A. Yes, sir.

Q. Sometimes in an hour? A. Yes, sir.

Q. Quite often in an hour, do you not? Sometimes in less than that? A. Sometimes less; yes, sir.

Q. How do you try seventy-five cases in less than an hour? A. I don't know. I can't very well explain it to you.

Q. Do you decide most of those cases on the spot? A. Most of them. Some I refer to the board.

Q. Some of these cases are cases for neglect of duty? A. Yes, sir.

Q. Some for violation of rules? A. Yes, sir.

Q. Some for conduct unbecoming an officer? A. Yes, sir.

Q. Sometimes for assaults on citizens? A. Yes, sir.

Q. You lump them all together, and you can do it as rapidly as that, can you? A. Yes, sir.

Q. Are you familiar with the book of rules? A. Well, yes, sir.

Q. You are pretty familiar with it? A. I think I am.

Q. Do you know what books it is the duty of the chief of police to keep? A. Yes.

Q. What? A. Well, he has got five or six different books down stairs.

Q. What are they? A. I don't know what the names are.

Q. You do not know? A. Not the names.

Q. What are they? A. The complaint book. The complaints he receives every day.

Q. Complaints of what? From citizens? A. Yes, sir. Generally from citizens.

Q. Do you receive any reports from the police force? A. Oh, yes.

Q. What reports? A. Weekly reports we receive from all the different precincts.

Q. Are there any other books that the chief keeps?

The Chairman—Mr. Sexton did not finish with the books.

A. There is a large book in the detective bureau, another complaint book, and he keeps a complaint book, and he may keep one or two others that I don't know.

A. Are there any important books which the chief keeps, which you have not mentioned? A. No, sir, not that I know of.

Q. You do not know of them? A. Not that I know.

Q. Do you know of any particular record that the chief of police is required specifically and particularly to keep, by the rules of the department? A. Yes, sir, certainly.

Q. What? A. Why, he has to keep a record of everything that happens daily.

Q. Oh, yes, of course; every officer has to keep a record of everything. A. Yes, sir.

Q. But what special books do the rules which you enforce on trial days require the chief to keep? A. He don't keep blotters,



I don't suppose. I think everything is entered up in his complaint book.

Q. Let me read them from the rules. A robbery book? A. But that is put down in the complaint book, isn't it?

Q. A record of robberies is issued from his office? A. That is put down in the complaint book. All robberies.

Q. A record of orders is issued from his office. Did you ever look at that? A. Yes, sir, I have seen that.

Q. A record of the current and incidental expenses of his own office. You did not mention these? A. I didn't say that.

Q. A record of suspicious places, and the names of the keepers thereof, in the city of New York. You didn't mention that? A. We have a record of that from the different precincts.

Q. I asked you about the different books which the chief of police must keep. A record of alleged houses of prostitution, and assignation houses, and gambling houses, and disorderly and disreputable houses of every kind in the city of New York, and with the names of the owners and keepers thereof. You did not mention that? A. No.

Q. Do you know Mr. and Mrs. Joy? A. Yes, sir.

Q. Where do they live? A. I don't know now.

Q. Where did they live? A. I think Mr. Joy is in Europe. I think so.

A recess was then taken until 2 o'clock p. m.

#### AFTERNOON SESSION—2 P. M.

JOHN B. SEXTON, resumed.

By Mr. Moss:

We have a squad called a boiler squad. Its duties are looking after all the engineers' licenses throughout the city.

Q. After engineers' licenses—is that all? A. Boilers.

Q. What do they do about boilers? A. They inspect them.

Q. Do they have a competent engineer, do you have a competent engineer in the employ of the department to do the inspecting? A. Yes.

Q. You don't mean to say that is done by common policemen?  
A. I believe there are some engineers.

Q. There are some engineers specially employed? A. Yes.

Q. Then the testing of boilers is not actually done by policemen, is it? A. I believe there are engineers there on the force; they have got I think a sergeant as an engineer that has got charge of the department.

Q. Do you mean to say that the business of issuing licenses to engineers and of the examination of steam boilers in this city is committed to uniformed policemen or do you have in your employ some competent trained engineers for that purpose? A. There is a sergeant at the head of that department that is an engineer, and he has got charge of it.

Q. He is an engineer? A. He examines all the applicants, I believe.

Q. Well, he happens to be an engineer, but suppose you had no sergeant that was an engineer, what would you do then? A. I suppose we would have to get one then.

Q. Does this sergeant receive any extra compensation because of his engineering ability? A. No.

Q. Then, do you mean to say that all of the steam boilers in the city have to be inspected by a sergeant of police? A. Oh, no; he has a dozen of men under him.

Q. Policemen or engineers? A. Policemen, I believe.

Q. Do you mean to say that all the steam boilers in New York have to be inspected, to be practically licensed by police officers?  
A. That are engineers.

Q. Suppose you did not have a sufficient number of engineers in the department, what are the provisions of the law? A. How was it when you were there? Ain't it just the same?

Q. You are not asking me questions; I am asking you? A. I am telling you, ain't I?

Q. Suppose you had not a sufficient number of policemen that understood boilers? A. Then I suppose we would have to get engineers.

By the Chairman:

Q. How many other men are employed for that purpose? A. I think there are about ten or twelve under this sergeant who do

not have any other work to do. They are inspecting boilers all the time.

By Mr. Moss:

Q. There are at present two police officers that are connected with that squad that are under indictment and about to be tried under accusation of taking money? A. They have been dismissed from the force and are not members of the force.

By the Chairman:

Q. How are their places supplied—by taking men from the force? A. Yes; I suppose they try to get engineers that are on the force.

Q. They may have some special qualifications? A. Oh, yes.

Q. Who passes upon those qualifications? A. The sergeant.

By Mr. Moss:

Q. Sergeant in charge? A. Yes. The chief assigns the police officers to the boiler squad. Of course those men do not have to do the ordinary patrol duty. We have not made any changes in it since I have been there. I suppose policeman rather like that detail. They get no compensation.

Q. Suppose a captain discovers that a house in his precinct is occupied for gambling, what are his duties? A. To report it.

Q. To whom? A. The chief.

Q. What other duties has he? A. Well, I suppose he ought to close it up if he finds there is gambling.

Q. What other duties has he? A. To arrest the proprietor if he can prove it.

Q. What other duties? A. I don't know of any other.

Q. Well, now, you might have a captain on trial before you accused of neglect of duty with reference to gambling houses in his precinct, and what would you hold him to an accountability for, what would you conclude his duties to be anything else than you have mentioned? A. No, I don't say there is anything else. They have a duty with reference to pawnshops; I believe they go around once a month or have their men go around to see that the pawnshops are properly licensed. That is all, I think it is the mayor's marshal licenses them now, I am not sure.

Q. If they have a reference to pawnshops, have they any reference to junkshops? A. Junkshops, no; I don't know.

Q. No duty with reference to junkshops? A. I don't say. I don't know of any.

Q. Is there any reason why a junkshop should be under police surveillance? A. I really don't know.

Q. Have they any duty with reference to second-hand furniture stores—yes or no? A. I don't know. Well, of course, as the judge presiding at the trials of this force and being especially interested in Manhattan it is interesting for us to know what you conceive to be the duties of police officers whom you may have to try? A. Yes.

Q. And whom you try so rapidly as you have testified to? A. Yes.

Q. And you have not thought of any special duties with reference to pawnshops or junkshops or second-hand furniture stores? A. No, I never had anything like that come up before me when I was presiding.

Q. Hasn't it ever occurred to you that stolen property is worked off through junkshops and pawnshops and second-hand furniture stores? A. At times I suppose it is. I have never heard of any such cases since I have been in the police board.

Q. Let me read to you a couple of the rules of the department on this subject with reference to captains: "They shall inspect or cause to be inspected and recorded from time to time all pawnbrokers' shops, second-hand dealers' shops, junkshops and intelligence offices in their respective precincts. They shall keep a record of all such shops and offices and report thereon from time to time to the district inspector." Do you know whether they do or not? A. No, I do not; the pawnshops—I don't know about the others.

Q. And report thereon from time to time to the district inspectors? A. They make reports about pawnshops.

Q. You never thought about the other places? A. Not about junkshops.

Q. You have officers brought up before you on trial for not discovering burglaries? A. Yes.

Q. That is quite a common case, charges made against you that certain officers have failed to discover burglaries? A. Yes.

Q. So your attention must be directed to these matters concerning the stealing of property and working it off. Now, with reference to gambling: "They shall, when any room or building, or any part or portion of any room or building within their pre-



cinct is known to them to be kept, used or occupied for the purpose of gambling, of recording or registering bets, or for selling pools, immediately give notice, in writing, to the owner, lessee and occupant of such room and building that the premises are occupied for such purposes, and that the occupation and use thereof for such purposes is a misdemeanor;" that is, send notice to the owners. Do you know whether they do that? A. Yes, I have heard of three or four cases since I have been down there.

Q. Do you know whether the force, whether the captains generally are doing that? A. Well, that is their duty to do it.

Q. And you are there to try them when they do not do their duty. Do you know whether they are doing it? A. I am not sure—I am not sure whether they notify the proprietors of the houses.

Q. You are not sure? A. Or the owners or lessées.

Q. If the occupation and use of such premises shall be continued after the service of such notice, they shall obtain warrants for and cause the arrest of such owner, lessee or occupant for the misdemeanor (this is not to be construed so as to prevent any officer from making an arrest without a warrant when the law is violated within his view and presence) and cause them to be prosecuted as required by law and shall promptly notify the district attorney in each and every case. You didn't know that rule was there? A. Oh, yes.

Q. Why didn't you speak of that when I asked you? A. I have not got it all off by heart.

Q. Do you know whether they are doing that? A. It is their duty to do it.

Q. Of course and you were put there to see that they do their duty? A. Certainly; and if they are found out they are not doing it I would prefer charges against them.

Q. You know that there are gambling places in New York, don't you? A. No, sir; I do not.

Q. Never heard of it, did you? A. Oh, yes; I have heard of it.

Q. What gambling places did you hear of? A. I just can't recall that now.

Q. Now, think for a minute and tell me what gambling places you have heard of in the city of New York since you have been a commissioner? A. I can't recall them just now.

Q. Do the captains report them? A. Yes.

Q. They do? You have seen them on the reports? A. Yes.

Q. What have you done about them? A. Alleged gambling houses.

Q. Well, call them alleged then; and I will ask you the question over; what alleged gambling houses have you heard of since you have been commissioner? A. May be heard of probably half a dozen.

Q. Is that all? A. I cannot recall where they are located.

Q. Is that all? A. That is about all.

Q. What have the captains done about those places? A. I suppose they closed them up—try to close them up.

Q. You suppose then? A. Yes.

Q. How do you know what they have done—have you talked to them about it? A. I have not spoken to the captains about it.

Q. Whom have you spoken to about it? A. Spoken to the chief about it.

Q. What did you say to the chief? A. I told him they ought to be closed up if they are gambling places.

Q. Did you really tell the chief they ought to be closed up? A. I did, really.

Q. Which place? A. I don't remember where it is located.

Q. You have only mentioned six places altogether. Which one out of the six did you tell the chief to close? A. I don't recollect.

Q. Are you certain you told him to do so? A. Certain.

Q. One or six? A. Might have been five or six.

Q. It might have been five or six? A. Yes.

Q. Well, do you include poolrooms in that category—gambling houses? A. Yes.

Q. Is a poolroom a gambling house? A. They gamble there.

Q. How many poolrooms are there in New York? A. I really don't know.

Q. Are there six? A. I don't know.

Q. Are there no more than six? A. I don't know.

Q. How many alleged poolrooms are there? A. I don't know.

Q. Have you reports on that subject? A. I believe we have.

Q. Have you looked to see? A. I looked the reports over.

Q. Have you noticed the many accusations in the newspapers for the last six months or more about there being many poolrooms in New York? A. Not particularly, no.

Q. Have you noticed that newspapers have charged that they were raising a corruption fund in the poolrooms? A. I noticed that.

Q. What have you done about that, anything? A. I don't think there is anything in it.

Q. But do you know whether there was anything in it? A. No.

Q. What did you do about the accusations? A. Didn't do anything about it.

Q. Then you have allowed the accusations concerning pool-rooms to go as they have come in the newspapers, eh? Do you understand me? A. Yes, certainly, I understand you.

Q. Well, is that what you have done? Here, for instance is a copy of the New York Times under date of April 7th. On the first page of the paper: New York is wide open. Gambling houses running in full swing all over the town, and there follows a list of thirty or forty poolrooms with the numbers and exact places; did you see that article? A. No, sir, I did not.

Q. Did you ever hear of it? A. No.

Q. You don't read the papers, do you? A. Oh, yes; didn't happen to see that article.

By the Chairman:

Q. Wasn't the attention of the chief called to that article? A. What article?

Q. That article? A. The corruption fund?

Q. This article with a list of gambling houses? A. I don't remember.

By Mr. Moss:

Q. I read you from the Journal. Do you know the New York Journal? A. Oh, yes.

Q. March 24, 1899—do you read that daily? A. Yes, every day.

Q. Well, now here is an article with a good picture of the chief in it: "No police bribery, says Devery. He declares the department knows nothing of the big fund extorted from the poolroom keepers to beat the police bill." Did you read that? A. Yes.

Q. Then you read in the Journal, which you read every day, it was alleged that people said the poolroom keepers were "putting up"—what did you do about that? A. I spoke to the chief about it.

Q. What did he say? A. He didn't know anything about it.

Q. Did you ask him if the poolrooms were running? Now, let me read you what the Journal says, and as a matter of fact here

are no assumptions or suppositions, but positive statements. The Journal says: "There are more than 300 poolrooms in Greater New York, about 250 of which are in Manhattan." Did you read that? A. Yes.

Q. Was that a true statement or not? A. I don't know.

Q. What did you do to find out? A. I believe I spoke to the chief about that, and spoke to the commissioners about it; I recollect I did.

Q. They are all operated in violation of the provisions of the Penal Code against gambling, and the proprietors, clerks and backers of the rooms are liable to fine and imprisonment upon conviction. Nearly all the rooms are under the control of four syndicates which have a powerful backing politically and financially. Did you ever hear anything about the powerful and political backing of the poolrooms? A. No, sir.

Q. Do you know Mr. Mahoney? A. Yes, sir.

Q. How long have you known him? A. About fifteen or sixteen years.

Q. Were you interested in that Texas Company? A. No.

Q. How have you known him? A. Oh, I have known him——

Q. In what way? A. Socially.

Q. Any business relations? A. No.

Q. Ever give him any money? A. No.

Q. Ever receive any money from him? A. No, sir.

Q. How long ago did you see him the last time? A. I think I haven't seen him in about three or four weeks, probably—I met him one time on Broadway.

Q. Did you meet him at the Democratic club, too? A. I have seen him in there.

Q. Does he go there occasionally? A. Once in a while.

Q. Is he a member of the club? A. Yes.

Q. Does he hold any city office? A. I don't believe he does.

Q. Do you know where his business office is? A. No, sir; I do not.

Q. Don't you know that he has an office in Forty-second street, in Egan's printing house? A. I never knew he had an office there.

Q. Have you ever heard his name connected with the poolroom business? A. I have heard his name connected. Not lately; I have not in four or five years.



Q. Have you seen anything consistent in your attitude as a police commissioner in maintaining friendly relations while police commissioner with a man that has been reputed to be so closely and largely connected with poolrooms? Do you say that it is consistent for you to do that? A. He is a friend of mine.

Q. And your official duties with reference to poolrooms did not lead you—— A. I don't think he has anything to do with poolrooms at all.

Q. Why do you think he has not? A. Because.

Q. Did you ever ask him? A. No.

Q. Did you ever inquire into it? A. No.

Q. Well, who has to do with poolrooms in this city? A. I don't know.

Q. You know nothing about it? A. No.

Q. Never heard anything about it? A. Oh, yes; I heard it rumored around.

Q. Well, who by—rumor? You don't recall that? A. I heard lots of names.

Q. Didn't it occur to you that in a matter of this magnitude where it is asserted that the poolrooms are run in syndicates and they are raising large corruption funds, don't you think you, as a Manhattan police commissioner ought to be interested in it—ought to know something about it and ought to do something about it? A. I don't believe those rumors.

Q. Why don't you believe them? A. Because I do not; they are only rumors; you cannot prove it.

Q. Well, it is a rumor to read upon the front page of the New York Times names and places in large numbers, is that mere rumor? And giving you the exact numbers of the places where you can go and bet your money on the horses? Is that mere rumor? A. When was that article in the Times?

Q. April 7th? A. April 7th?

Q. Yes, sir. Is that mere rumor? A. I don't know.

Q. As police commissioner, do you attach any importance to an article like that? A. I don't know.

Q. Well, what do you know about it—anything? Do you know anything about this subject of poolrooms? A. Only hearsay.

Q. Well, why don't you know? A. You have informed me a whole lot.

Q. Of course; it seems to be my business to inform you people about these things. Why don't you know something on your own account? A. Well, I don't know.

Q. You don't know why you don't know? A. No.

Q. And do you consider it a mere matter of rumor when The Journal, which has been a supporter of your administration, makes that accusation right under the picture of the chief, which I have read to you? Is that mere rumor? A. I don't know about that.

Q. Doesn't it occur to you, Mr. Sexton, that this assumption of ignorance on your part about a matter that is known to the whole city, is ludicrous? A. No; it does not occur to me at all.

Q. Well, you have the reputation of being a wideawake man, haven't you? A. Yes.

Q. Of knowing things as well as they can be known in this city? A. Yes.

Q. And you have gone into houses and places on police business, haven't you? A. No.

Q. Never? A. Not on police business.

Q. On business connected with your office as the supervisor of police, have you never been in the Tenderloin resorts? A. No.

Q. Not once? A. Oh, yes; I have been in those places, in saloons in the Tenderloin.

Q. Yes, and in gardens like the Cairo? A. Never. I don't believe I was in any one of those places. I am a police commissioner; I am not doing patrol duty.

Q. To be sure, but even General Sherman didn't think it beneath his dignity to make patrols at night to see what the army was doing? A. Well, I don't make them at night.

Q. You don't make them? A. No.

Q. Well, if you do not make patrols at night to see what your police are doing in the various resorts, what were you doing at No. 247 West Fifty-fourth street? A. When? When was that, 247?

Q. Oh, since you have been police commissioner? A. Never was there.

Q. Never was there? A. No, sir.

Q. What were you doing at No. 153 West Fifty-third street? A. Never was there.

Q. Never was there, eh? What are you smiling at? A. What are you smiling at? I am smiling at you.

Q. I'm not smiling; I see nothing in the question to provoke a smile, and I am not smiling and have not been? A. You were smiling at me.

Q. Have you visited any poker or faro game in the performance of your duty as police commissioner? A. I do not think this has got anything to do with the police department, but I will answer I have not. I won't answer any more questions.

Q. You won't? Why not? A. Outside of the police department, because I don't think I am here—and you can't ask me any questions outside of the police department, and I won't answer them.

Q. Mr. Sexton, it is your business, to know something about what your force is doing against criminal places; it is your business to know where they are; and it is our business to find out what you do know and what you don't know and what you are doing as a police commissioner in places of this character; and don't you realize, Mr. Sexton, that it is the duty of a commissioner of police to set an example before the men in personal conduct? A. I won't answer that question at all; it has nothing to do with the police department, and I won't answer any more questions outside of the police department.

Q. That is the police department, Mr. Sexton? A. No, sir.

Q. Why? Are we getting pretty close? A. No, you are not any closer to me than you were.

Q. I will come up a little closer now and I will ask you if you were doing police duty at 247 West Fifty-fourth? A. I won't answer, it has nothing to do with this investigation.

Q. And were you doing police duty at 153 West Fifty-third street? A. Nothing to do with this investigation. I am here to answer questions concerning the police department.

Q. I am asking whether you were doing police duty there—were you or were you not? A. I won't answer the question now.

Q. I will read you some more from this article: "There is no secret about their existence and operation. The doors are practically wide open. Business is done six days in the week, from 2 p. m. until about 8 p. m., when the last returns come in from the western race tracks. The police do not pay the slightest

attention to the poolrooms and few, if any, of the rooms have been raided since the close of the legitimate racing season in this vicinity last fall. Each room is connected by telephone to a central office where the results are called off upon a megaphone and precaution is taken that all the places get the winners at the same time. The reports show an average profit of from \$2,000 to \$5,000 a month from many rooms?" A. That is a big profit.

Q. Yes, \$2,000 to \$5,000 a month for a single poolroom. "In opening a poolroom the backer or proprietor does not have to obtain the personal consent of the police captain in the precinct where the room is to be opened, as was the custom before the Lexow investigation, but the consent and support of a special agent of one of the syndicates has to be obtained. The regular tariff on each room which has to be paid for the betting privilege averages \$100 a week, and the disposition of the fund depends entirely upon the discretion of the syndicates." Now, you said you read this article which said that each of these rooms puts up \$100 a week. What did you do about it? A. Haven't done anything; I spoke to the chief and the other commissioners about that article.

Q. You spoke to the chief; what did you say to him? A. We could not get any proof against any of those people.

Q. You could not get any proof against any of those places with how many men, did you say, on the force? A. Seven thousand three hundred.

Q. And how many men in your detective bureau, which you say is under your immediate charge? A. A couple of hundred.

Q. You mean to say that the detective and police ability in that department, with you in it too, is not able to get proof against any one of 300 poolrooms, even when it is charged that they are working corruptly and raising a corruption fund? A. You needn't grind your teeth at me; don't get excited. Let him treat me right and I will answer the question properly. I don't want to be insulted; you have insulted me enough now.

Q. Answer the question, Mr. Sexton, A. You want to be a bully here. (Question repeated as follows): You mean to say that the detective and police ability in that department, with you in it too, is not able to get proof against any one of 300 poolrooms, even when it is charged that they are working corruptly and rais-



ing a corruption fund? A. I believe they tried to get some of them; they could not get any of them.

Q. You believe they tried to get some of them; which did they try to get? A. I don't know.

Q. Did you ask anything about it? A. Yes.

Q. You are connected with a club upon Columbus avenue, aren't you? A. Yes.

Q. What is the name of that club? A. I don't know.

Q. The Golden Swan? A. No.

Q. What is the number? A. I have never heard of the Golden Swan.

Q. You never did? A. No.

Q. Is it your brother that is up there, or is it you at 324 Columbus avenue? A. Never heard of such a place.

Q. Well, where is that club that you are connected with up on Columbus avenue? A. We have got a headquarters there, 430 Columbus avenue.

Q. No club? A. Political club.

Q. I will continue with this article: "Recently the special collectors for the syndicates became very active and a private interview was held with the proprietor of every poolroom in Greater New York. They were told that the betting industry was in danger of being destroyed by the bills pending before the Legislature. Special reference was made to the police bill, which provides for a singleheaded police commission, which has the power to appoint a chief, both being subject to removal by the governor upon charges. The argument was used if this bill were passed there would be an end to poolrooms. In order to defeat this bill, the special agents said that a large sum of money would be necessary, and a demand was made upon each poolroom proprietor for \$300. There were not a few protests. The poolroom keepers bluntly declared that from their standpoint it seemed that the fund to prevent adverse police legislation should be taken from their regular weekly subscription.

"The objection was fruitless. The poolroom men were told that if the \$300 were not paid at a certain time their rooms would be closed by the police.

"This threat was efficacious. In every case the poolroom men were whipped into line. What became of the money the poolroom syndicate alone know.

"Perhaps some secret agent may have taken the bundle of boodle to Albany.

"It was alleged in a newspaper yesterday that at a meeting of the Police Sergeants' Endowment and Benevolent Society of the city of New York, held at the Murray Hill Lyceum this week, the sergeants present subscribed \$25 each for a fund to aid in the defeat of adverse police legislation. The officers of the meeting were Oliver E. Tims, president; Thomas K. O'Brien, treasurer; John W. O'Connor, financial secretary, and James E. Hussy, recording secretary. The call for the meeting was sent out by Sergeant John Flood, of police headquarters." Did you investigate the statements in that article? A. Yes.

Q. How, Mr. Sexton? A. I spoke to the chief about it; spoke to the members of the board about it.

Q. That is the way you investigated? A. There was nothing in it.

Q. Did you know there was a poolroom over Mr. Wakely's, at Forty-second street and Sixth avenue? A. No.

Q. Did you ever hear of that? A. No.

Q. You have a good many sporting friends, Mr. Sexton, haven't you? You are interested in sports, ain't you—interested in athletics? A. Yes.

Q. And interested in some athletic club? A. No; I am a member of the New York Athletic Club.

Q. Are you not a member of the Lenox club? A. No.

Q. Are you interested in the Lenox club? A. No.

Q. You have a general interest in sporting matters, haven't you? You mean to say that you never heard of a poolroom being over Wakely's? A. I mean to say that.

Q. You have been in Wakely's, haven't you? A. Yes.

Q. Pulled a telephone off the wall one day, didn't you? A. I don't know; never heard of such a thing; don't believe it either, and I don't want you to insult me again either; you understand that?

Q. Yes, I understand you? A. And I won't answer any more questions at all if you dare to do it; you have gone far enough.

Q. That is for you to say? A. You can't get people sitting in this chair here to bully them and put all sorts of questions to them. That is a downright falsehood.

Q. I am glad to have you give it positively? A. You know very well it is; how dare you ask me such a question; you know very well it is.

Q. Was it a crime? Have you ever been in Wakely's saloon? A. Yes; I have been in there.

Q. You have used the telephone there haven't you? A. Never.

Q. Never? A. No.

Q. Never took the receiver off? A. Never.

Q. And you never heard there was a poolroom upstairs? A. Never.

Q. Well, now, let us see; do you know the Morning Telegraph? A. Do I know it?

Q. Yes? A. Yes.

Q. You read it sometimes, don't you? A. Yes.

Q. It is a paper that supports your organization, isn't it? You are an organization man, ain't you? Believe in it, don't you? A. Certainly.

Q. Believe in Mr. Croker and Mr. Carroll and the whole business? A. Yes.

Q. And you are representing them in the police board, aren't you? Aren't you? A. Representing the—

Q. Representing them? A. No; I am not. Neither one of them caused me to be appointed.

Q. You are representing the organization there, aren't you? A. I am representing the Democratic party in the police board.

Q. That is an organization, isn't it? A. I suppose so.

Q. Exactly; Tammany Hall, isn't it; you are not ashamed of it? A. The Democratic party, no, indeed I am not ashamed of it—are you?

Q. No. Why did you hedge on it? A. I am not hedging on it.

Q. Do you represent the Tammany Hall organization in the police board? A. I suppose so; yes.

Q. Yes; why didn't you say so? Now, you have stated that you read the Morning Telegraph and know what is in it. I ask

you if you read the statement about Senator Wolcott losing a large sum of money in a gambling house? A. No.

Q. Here is a Morning Telegraph of May 3d, article entitled "Ed. Wolcott drops his roll. New York city circulation has been increased \$72,000 by reason of Senator Ed. Wolcott's visit here. He came to New York last week and it is asserted relaxed to his full satisfaction. A couple of obliging gentlemen in West Forty-third street of the name of Johnson & Emery made up a little bank-roll for the senator's entertainment." So it goes on telling about a great game that ran in the house of Johnson & Emery by which Mr. Wolcott dropped this money. Did you ever hear of Johnson & Emery's game in Forty-third street? A. Never.

Q. Did you ever hear of any gambling house in Forty-third street? A. About a year ago I heard of it.

Q. About a year ago where? A. I don't know the number? Some place in Forty-third street.

Q. Did you ever hear of any gambling game in Forty-fourth street? A. No.

Q. Will you tell me, Mr. Sexton, what is there at 5 East Forty-fourth street? A. I don't know.

Q. You never heard of that? A. No, never; never heard of it.

Q. Well, there is a rather palatial looking place? A. 5 East Forty-fourth?

Q. Yes? A. I don't know anything about it; never heard of it before.

Q. Do you know of any gambling houses running in the city of New York now? A. I do not.

Q. Do you know Mr. Frank Farrell? A. Yes.

Q. How long have you known him? A. Oh, about twenty years.

Q. Twenty years? A. Yes.

Q. What is his business? A. He owns running horses I believe.

Q. He owns running horses, and he owns a poolroom too, doesn't he? A. Never knew of him.

Q. Did you ever hear of it? A. No.

Q. Never heard that? A. No, only what I heard you say one day up town.

Q. That was at 54 West Twenty-ninth street? A. Yes.



Q. You recall the place don't you? A. I don't recall it.

Q. Have you ever looked at it? A. Never.

Q. Well, now Mr. Sexton, when Mr. McCullagh was chief of police, you asked him to transfer a certain police officer named McConnell, didn't you? A. Yes.

Q. Why did you ask him to do it? A. You ask Mr. McCullagh, he will tell you.

Q. I am asking you why you asked Mr. McCullagh to transfer McConnell? A. I refuse to answer the question.

Q. Will the answer tend to degrade you? A. No.

Q. Will it tend to convict you of a crime? A. No, no; let Mr. McCullagh tell about it.

Q. Will you abide by what he says? A. I don't know.

Q. You want to have him tell it first so you can see what you are to say; that is your trick is it? A. No, no trick at all.

Q. Don't you think it is a fairer and squarer and a manlier thing to tell your own story? A. No, I don't think it is a fairer, squarer and manlier thing; I was not brought up in that school.

Q. You want to hear what he testifies, so you can fix your own testimony? A. Mr. McCullagh is not in the police board; I have nothing to say against Mr. McCullagh.

Q. Have you anything to say against Mr. McCullagh on any score as a man? A. Nothing to say.

Q. Had you anything to say against him? A. Ask Mr. McCullagh at all about his honesty.

Q. He was chief of police under you for some time? A. I have nothing to say against him?

Q. Had you anything to say against him? A. Ask Mr. McCullagh.

Q. I am asking you? A. Ask Mr. McCullagh.

Q. No, no? A. I won't tell you.

Q. Mr. Sexton—— A. I won't tell.

Q. I don't care whether you do or not; if you are willing to take that position, you, who voted to retire him; I am asking what you had against him when you voted to retire him? A. Don't shout; keep cool.

Q. Answer it? A. I won't answer it.

Q. Had you anything against him when you voted to retire him? A. I won't answer it.

Q. Were you voting under orders? A. I won't answer it.

Q. Were you voting under the orders of Mr. Carroll? A. I won't answer; no; I will answer that.

Q. Why do you answer that and not the others? A. Just because I felt like answering that.

Q. Is that the way you feel like discharging public duties—you will do what you please and you will leave undone what you please? A. How did you do it when you were there?

Q. I am asking you, sir? A. How did you do it?

Q. Now, what had you against McCullagh as a man, as a police officer, when you voted to retire him—eh? A. Ask Mr. McCullagh.

Q. How can he know what you had against him? A. Ask him.

Q. Mr. Sexton, you had nothing against Mr. McCullagh? A. There is no necessity of shaking your finger at me; keep cool Mr. Moss.

Q. You know Mr. McCullagh was an efficient police officer, didn't you? A. (no answer).

Q. Do you mean that the Legislature of the State and people of New York shall take you at your word that when asked by a proper authority in a proper way to give your reasons for removing a public servant, that you decline to give your reasons? A. No; I do not decline.

Q. Well; will you give them? A. I told you to ask Mr. McCullagh.

Q. Will you give them? I shall ask Mr. McCullagh? A. Well, ask him.

Q. But you are entitled to make your explanation? A. You ask Mr. McCullagh.

By the Chairman:

Q. You are on the stand; you are a public officer, and the people of this city and the Legislature, I think ought to know. These are pertinent questions relating to your performance of your duties as a public officer under the city government. I think that is a fair question to ask? A. Well, I wanted to make Devery chief; Devery was my friend and I wanted to make him chief of police. I retired McCullagh.

By Mr. Moss:

Q. You retired McCullagh in order to make Devery chief, who was your friend? A. Yes.

Q. How long had he been your friend? A. Twenty years.

Q. And Farrell was his friend and your friend, wasn't he? A. I guess so, yes.

Q. You were all friends together, now isn't that so? A. Yes.

Q. And so you determined that there was only one way to make a place for Devery and that was to remove McCullagh? A. Yes.

Q. And you want to be perfectly, as I understand you now, and to say that you had nothing against McCullagh himself? A. I won't say whether I had or not. I am not going to speak about McCullagh; he is out of the department.

Q. If you have any accusation to make against Mr. McCullagh, either as a police officer or as a man, we will give you now the fullest opportunity to do it? A. I won't make any. I am not that kind.

Q. You are not that kind—what do you mean by that? A. I don't know; if you don't understand it I won't tell you.

The Chairman—Mr. Sexton has assigned his reasons for removing McCullagh because he wanted his friend Devery appointed; now that is the answer he wants to stand on the record. Let us have it that way.

Mr. Moss—I want Mr. Sexton to state everything that can be stated at this time, and sometimes witnesses when they think a little while remember something else.

The Chairman—Precisely; I say he can if he has any other reason to assign.

The Witness—If you would act a little more gentlemanly probably I will answer you.

Q. Well, it was along about that time when you asked Mr. McCullagh to transfer Mr. McConnell, wasn't it? A. I guess it was before that.

Q. Why did you want Mr. McConnell transferred? A. I won't answer that question now. I told you before, didn't I, three times I won't answer that question.

Q. Would the answer tend to degrade you? A. No.

Q. Would it tend to incriminate you? A. No.

Q. Was it not because Mr. McConnell had attempted to close the poolroom of your friend Mr. Farrell that you asked the chief to transfer him? A. What an absurd question; you know in your heart——

The Chairman—Wait a moment; one moment Mr. Moss. Now, Mr. Sexton, don't get into argument with the counsel.

The Witness—What right has he to put such a question to me?

The Chairman—You have a right to answer it yes or no. He has a right to ask that question and you can answer it.

The Witness—No.

The Chairman—Let us proceed and not argue with counsel.

Q. Did you know that Mr. McConnell had gone to Mr. Farrell's poolroom? A. I didn't know that Mr. Farrell had a poolroom, and I don't know Mr. McConnell; I wouldn't know him if he came in the door now.

Q. Well, what was it that induced you to interfere in the matter of a poor policeman who was doing his duty and to have him transferred? A. I did not interfere.

Q. You asked to have him transferred? A. I don't recollect anything about it.

Q. You don't recollect speaking to Mr. McCullagh with reference to McConnell; are you sure of that? A. I told you I would not answer that question. You speak to McCullagh—ask McCullagh.

Q. You said you don't recollect. Do you mean that you don't recollect whether you did it? A. I spoke to him about it, but I don't know McConnell.

Q. Isn't it a fact you asked Mr. McCullagh to transfer McConnell? A. Yes.

Q. Yes, you say, do you? A. I think I answered that question before; I think so, yes.

Q. Was it because McConnell was not a good policeman? A. You ask Mr. McCullagh that question; he will tell you that.

Q. I am asking you why? A. I won't answer that; see.

Mr. Moss—Well, for the sake of the record I think chairman had better direct the witness to answer that question.



The previous few questions were read.

The Chairman—The question that has been asked you is whether you asked Chief McCullagh to have McConnell transferred because he was not a good policeman. That is the question that has been asked you and you are directed to answer that question by the committee.

The Witness—Whether he was not a good policeman?

The Chairman—Whether that was the reason for which you asked to have him transferred?

The Witness—The reason was I think I heard some stories about the man McConnell.

Q. You say you heard some stories about McConnell? A. I think, to the best of my memory.

Q. What stories did you hear about McConnell? A. I don't recollect just what they were just now.

By the Chairman:

Q. Were they derogatory to Mr. McConnell's conduct as a policeman? A. Yes.

Q. You don't recall what they were? A. No, I don't just remember.

Q. The general character of the stories? A. No, I don't recall.

Q. Do you recall in what particular they affected his action and conduct as an officer, as a police officer? A. No, I do not.

Q. And it was because of those stories that you heard derogatory to his action as a policeman that you asked to have him transferred? A. Yes.

Q. That is your recollection of it now? A. Yes.

Q. Where was he at the time you asked for his transfer? A. I think he was in with Inspector Brooks on the inspection list, down at 300 Mulberry street.

Q. He was at headquarters? A. Of Inspector Brooks; I think he was there.

Q. Where did you ask to have him transferred to? A. Out of there; I don't remember any place.

Q. You don't know where he was transferred to? A. No, I don't remember; I don't know where he is now.

Q. Would the transfer of an inefficient officer make him more efficient to transfer him from one place to another? A. It might in some cases.

Q. Well, in what particular would the transfer of McConnell from 300 Mulberry street to some other precinct rectify an error or make him a better policeman? A. Yes, it might, in some cases.

Q. I must confess that I don't quite understand how that could be so; that is the reason I asked you that question.

Q. Well, I think he was detailed there; he was put back on the post again if I remember rightly—if I think rightly; I am not sure about it; I am not positive about it.

By Mr. Moss:

Q. See if I cannot refresh your recollection about this. In the first week in March didn't you telephone to Mr. McCullagh and ask him if he had transferred McConnell yet? A. I don't remember that.

Q. You don't remember? A. No.

Q. Didn't he say to you that he would see about it—about McConnell's transfer? A. I think he did.

Q. Didn't you tell him "You will see nothing about it; I don't want you to string me any longer in this matter; I order you to do it to-day;" didn't you say that? A. I don't recollect; I may have; I don't recollect.

Q. You may have; and did not Mr. McCullagh see you, together with Mr. Hamilton, in your room, and you asked him why he did not transfer McConnell, and McCullagh said he was on the sick list; do you remember that? A. I think so.

Q. And you denied that he was sick? A. Yes.

Q. And you sent out to investigate? A. Yes.

Q. You came to the conclusion he was not sick? A. Yes.

Q. And you ordered McCullagh to do it at once, didn't you? A. Yes.

Q. And then McConnell came up before the police surgeon and was examined, was he not? A. I never heard of that.

Q. You don't know about that? A. No.

Q. Didn't McCullagh absolutely refuse to transfer McConnell? A. I believe he did.

Q. And didn't you then offer a resolution in the board to direct McCullagh to transfer him? A. I believe so.

Q. Well, now was that altogether because of the rumors that you heard about him, that he was a bad man; or wasn't there some other reason? A. No, I don't recollect just now what the reasons were—some of the reasons.

Q. There was some other reasons and you don't recollect what they were? A. No.

Q. And on the 19th of March you again offered a resolution to direct the chief to transfer him to Jamaica, didn't you? A. Did I—to Jamaica?

Q. Yes. A. Likely, if you say so.

Q. To Jamaica, away off? A. Yes.

Q. How many other officers did you ask to have transferred in that way to a long distance—any? A. I don't recollect.

Q. This is the only one that you can recollect, isn't it? A. Probably he wanted to go to Jamaica.

Q. Probably he wanted to go—do you really mean that? A. Probably he did; I don't know.

Q. Well, if he wanted to go to Jamaica and you had heard rumors about him which made you think it necessary to discipline him, why did you do what he wanted to have done? A. I don't know.

Q. Then do you remember that Commissioner York offered an amendment to request the chief to transfer him to Jamaica—instead of directing him to transfer him? A. No; I don't remember that.

Q. Did you not also ask the chief to transfer Captain Herlihy? A. I may have; I am not sure.

Q. He was at the Fifth Street station, now the Sixteenth precinct? A. Yes.

Q. Can't you remember? A. No, I am not sure about it.

Q. Did you want to have him transferred from there? A. Not that I remember.

Q. Don't you remember any discussion about that thing? A. I can't recall it just now.

Q. Well, you know that he was transferred just as soon as the board was changed, don't you? A. I believe he was; yes.

Q. And didn't you request Chief Devery to transfer him? A. I don't remember whether I did or not.

Q. Don't you remember that that was one of the first things that was done; he was ordered to report away up at the upper end of the city at six o'clock that night? A. I don't recollect asking the chief to do it.

Q. Do you remember any conversation with anybody about it? A. No, I do not.

Q. And do you mean to say, Mr. Sexton, that all this matter concerning McConnell had nothing to do with Frank Farrell? A. I mean to say that I never heard his name mentioned—Frank Farrell—never.

Q. Well, did Senator Sullivan ask you to do it? A. No.

Q. Did you have any conversation with Mr. Sullivan? A. No.

Q. About the transfer of McConnell? A. No, sir.

Q. Did you have any conversation with Mr. Sullivan about Farrell's poolroom? A. No, sir.

Q. Didn't he come into the building and come and see you at that time? A. Who?

Q. Sullivan? A. Oh, he has been in to see me—I don't recollect just at that time——

Q. He has been a frequent caller on you, has he not? A. I don't believe he has been there twice in six months.

Q. Are you perfectly willing to have Mr. McConnell give his version of this matter; you have said that he was, in your judgment, under accusation? A. Yes.

Q. Are you perfectly willing that he should have a fair chance to tell his version of this story? A. As far as I am concerned, I don't know anything about it.

Q. And if he takes the stand and testifies his version of the matter, what will your board do with his pension? You are aware that Mr. McConnell was retired on a pension for disability—a small pension of thirty odd dollars a month. Now suppose Mr. McConnell takes the stand and testifies; what will you gentlemen do with regard to his pension? A. What do you suppose we would do?

Q. I suppose you are liable to revoke him. A. Oh, no; I am not that kind of a man—no.



Q. Mr. McConnell can testify with perfect freedom here and not feel that his pension is jeopardized? A. As far as I am concerned, certainly.

BERNARD J. YORK, sworn:

By Mr. Moss:

I am the president of the police board, and one of the first acts of our new board was to make Mr. McCullagh active chief of the new department, and then chief. When that was done I had perfect confidence in Mr. McCullagh; if I hadn't I shouldn't have done it. I worked in harmony with him, and he and I together discussed the matter of gambling. I directed Mr. McCullagh, so far as I could do it, to proceed with all diligence and all activity and all force against gambling in every quarter. I said I would stand by him.

Q. And you said if he had to go out on an issue of that kind you would go out with him, or words to that effect? A. I don't recall making any such statement as that.

Q. You said you would stand by him to the extremity? A. Yes, I recall that; I said it; I do not recall the going out part.

Q. You delivered yourself publicly of a statement to the effect that Mr. McCullagh had proved himself to be a good chief, one of the best that ever had filled the office? A. Well, I made a statement similiar in substance to what you state; I don't recollect exactly what it was; I don't know whether you can call it a public statement.

Q. It was published—it was made to Mr. Snyder? A. It was made to anybody who chose to listen to it, and they had a perfect right to publish it, substantially just as you have now stated.

Q. And it was taken by Mr. Snyder and read over to you after he took it? A. Well, I couldn't state.

Q. Then it appeared in the newspapers? A. Well, it did appear, although I do not recall reading it in the newspapers. I do not read everything I see in the newspapers. I have a recollection of something in substance about as you now state having been published; I do not recall the fact; it was made by me and read over to me by Mr. Snyder or anyone else; still it may have been done in that way.

Q. Was there not some pressure brought to bear upon you and upon Mr. McCullagh by gambling interests, sometime after he became chief? A. Never was any pressure attempted to be brought upon me personally—no.

Q. Did you hear of any pressure attempted upon anybody to make it easier for the gambling interests? A. What do you mean by pressure?

Q. Well, suggesting that the law should not be rigidly enforced? A. Nobody came to me and made such a suggestion. If they had they would have been put out of the office then or now.

Q. Did you hear of any such approaches to Mr. McCullagh? A. No, I did not, unless he mentioned something of the kind to me.

Q. Well, did he not mention such things to you? A. No, I don't recall him mentioning that. I recall the fact that there were many conversations between McCullagh and myself on that subject.

Q. On the subject of gambling? A. What occurred in any of those particular conversations I could not recall now. Generally it was the instructions that were given to McCullagh was to suppress gambling as well as to suppress anything else that was a violation of the law. So far as pressure being brought to bear by anybody within or without the department for the purpose of permitting gambling or anything else, there was no pressure attempted to be brought on me at any time since I have been in the department and it would not be safe for anybody to do it, neither, while I am in there.

Q. Well, what about the existence now of large numbers of poolrooms; are you aware of that fact? A. Not personally aware of it. There is no one aware of the fact, but there is an open charge that gambling exists in New York. You ask me if I am personally aware of that in the sense that I have visited those places. I have to answer you no. If you ask me if I believe there are gambling houses in New York I tell you yes I do so believe; there has always been gambling houses in New York, and in my judgment there always will be, and it is not within the possibilities to eradicate that evil, if evil it be—and I believe it to be an evil—it is not within the possibilities to eradicate it in this or in any other large city; it is in every large city in the world, if we are to believe reports or rumors, and it will continue to exist here.

Q. Assault and battery exists in every city? A. Yes.

Q. And theft exists in every city? A. Yes.

Q. That is the reason we have a police force? A. That is the reason we have a police force.

Q. And it is the duty of a police force to make head against all forms of crime? A. Undoubtedly so, and if it does not do it it does not discharge its duties in full.

Q. And if any kind of crime increases largely, specially, that is a matter that the persons having charge of the police department should be very serious and anxious about? A. Unquestionably so, sir.

Q. Now, I want to ask you if you remember the time when Mr. Sexton was desirous of having policeman McConnell transferred? A. I remember it more now from the fact of hearing you ask some questions about it than I did before I came here, but it was a matter I paid very little, if any, attention to at the time, though I remember the fact that there was some differences between him and McCullagh in reference to the transfer of Officer McConnell.

Q. You knew he had asked for it? A. I knew there was something he had asked.

Q. And he brought resolutions into the board about it? A. Yes, I did remember that hearing you read the resolution.

Q. And you asked Mr. McCullagh to try and get along as easy with Sexton as he could? A. Try to oblige him if he could; I don't know anything about the easy part of it. I probably said to McCullagh if Sexton asked him to transfer him I would do it. If I had asked him I would have made him do it.

Q. How would you have made him do it? A. I think if a police commissioner has reason to justify him in asking him to transfer a member of the force, the chief of police has a right to assume the commissioner does it for proper motives; if he does not do it for proper motives, he has no business to be there as commissioner. If I ask the chief of police to transfer a man and he don't do it, I will know the reason why; otherwise it is time for me to get out.

Q. How will you make him do it? A. It will remain to be determined after he has refused it.

Q. What legal way had you or did you have or do you have, now, of compelling the chief to do that? A. None whatever; you have not the legal right to do it; but there are many things you do that are not strictly legal. The relationship between the chief of police and the commissioners should be of a very confidential and cordial character; otherwise there cannot be that discipline, that harmony of action in the governing parts of the department

itself to bring about the results that ought to be brought about from a large, complex and difficult department such as that is. That is why I say, therefore, as a commissioner making a request which is legitimate and proper of the executive officer of the department to transfer a patrolman, and that being refused, without a reason being assigned for the refusal, the relationship between the chief and myself would have to necessarily become somewhat from that act strained.

Q. Yes, strained; but how would you make him do it? A. I don't know; I had never had that trouble.

Q. But don't you know that the power in the chief to do this thing was given him specially by legislation, specially devised a few years ago, and for the very purpose of making him independent of the commissioners in the matters of transfer and detail? A. Then the persons who devised that system and I do not agree.

Q. I understand, but you are the servant of the people and you act under the law? A. Absolutely.

Q. And what right have you to read into the law an interpretation contrary to its very terms? A. Don't misunderstand me; I do not wish to be misunderstood. Whatever the law is it is just the same duty for the commissioner to obey as it is the chief's duty to obey; but because the law lodges a certain power in an executive officer of the department and a certain other power in an administrative officer of the department, if you please, I mean to be understood as saying that there should be a relationship between those two persons of such a character of confidence that one would act in harmony with the other in carrying out what he believed to be a proper thing. In theory and in law the chief of police is responsible for the management of the force. In reality the public holds the police board to that responsibility, and they should be so held, and a police commissioner in the discharge of what he believes to be his duty has the right to request things to be done of that kind and has the right to expect that they will be done when they are asked him.

Q. When did you learn that it was desired to remove Mr. McCullagh and who told you? A. I couldn't tell you that with any kind of fixity as to time.

Q. Who told you? A. Nobody.

Q. How did you know it? A. As we sometimes know things by intuition, by circumstances and conditions.



Q. Who did you understand was desirous of securing the removal of McCullagh? A. Well, I don't know that I understood that anyone in particular was, except from the intuitive faculties that we possess that there was a desire that McCullagh should get out.

Q. A desire where? A. Sexton had it.

Q. Who else? A. Well, I don't know; no one else ever spoke to me in reference to it.

Q. You thought the statement of Sexton was intuitive enough? A. Well, you can call it what you please on the intuition. The relationship between Mr. McCullagh and Mr. Sexton had become very much strained, and that strained relationship had existed between both of them for some time prior to McCullagh's removal. As with reference to McCullagh and I the relationship between us was of the very best. McCullagh was a good officer; no question about that, and I am not here to say that he was not; but there is another thing needed in the police department besides a good officer; there is the existence of that harmony of action and that confidence between the two governing bodies, if I may so describe them, if you are going to bring about the proper results. Now, then, Mr. McCullagh's relationship with part of the police board was such that, in my judgment, I changed and voted for his removal, believing that to be in the best interests of the department as a whole, and not intending by that act to reflect upon McCullagh one whit. He suffered just the fate of everybody else that had been there before him, the same as you did yourself on one occasion. That is the whole story of the McCullagh business, as far as I know about it.

Q. Didn't you also feel that in removing him you were acting in conformity with the wishes of the organization which you represented in the board? A. Well, I don't think the organization had any objections to the removal.

Q. Thank you for the answer—thank you. Then you do not agree with the previous witness, to-day, who characterized Mr. McCullagh as a liar, a coward and a fakir? A. I am not here to agree or disagree with anybody. I did not hear any witness say that.

Q. I did. A. I was sitting in a part of the room where I heard part of the answer and didn't hear the other part.

Q. That was the expression of the mayor. A. I am not here to answer anybody.

Q. Your own judgment of McCullagh as a man and as chief you have expressed? A. I stated frankly what my opinion of McCullagh was; I adhere to it; we do not all judge people in the same way.

Q. When you were considering the removal of McCullagh, were you considering the man who would be put in his place? A. Well, in the natural gravitation of the law of gravitation, Devery would naturally lead there, it being an appointment the board would have the right to make independent of civil service rules.

Q. Why would he naturally lead, when Cortright was the deputy chief, a man who had ranked him for years and whose reputation was absolutely flawless? A. The way I will answer that is by going a little into the realms of speculation, because what your view of that and mine might be is entirely different, and we both might be right. I may say that we did it for the same reason that boards that had preceded us did the same thing, by taking men from lower or inferior grades and putting them in the higher.

Q. But not with untried charges on the files? A. An untried charge had no weight in my mind whatever.

Q. Why didn't you dispose of them and wipe them off the records? A. Because we were, as I understood it at that time, under the same conditions as the prior board was.

Q. But a stay of proceedings had been obtained by Devery himself. Why didn't you make him discharge the stay so as to give you the power to wipe those charges off, before you elevated him over the head of other officers? A. Let me answer that in my own way. The charges against Devery were not considered by me at the time of his appointment as chief. I paid no attention to them. Devery had been appointed a deputy chief prior to that. Prior to that time I had no knowledge that there were undetermined charges in the board. My only knowledge in reference to those matters was such as the general public had of the things that had occurred in newspapers or in public before. At that time the question was brought to my attention in going over the records of the department, that is the unfinished business left by the preceding board, and among them those papers were found, and it was then I ascertained that a writ of prohibition had been obtained, and I also then ascertained that the charges or the offenses in the charges then pending before the board were substantially the charges that Devery had been tried on in the courts, and that was practically discarded. Now another thing—

Q. One moment, right there. Did you make so careful an examination as to be able to say that positively, or is that simply your opinion? A. That is an opinion. I do not mean to say I went into a very thorough examination.

Q. When you come to compare the charges on which he was tried and the charges which are on file in your office you will find a very wonderful difference wherever looked into? A. If you will pardon me on that, I did look into it. I do not think there is a wonderful difference.

Q. We won't waste time on that. I invite you to examine them more carefully than you have done. A. I might say another thing in reference to that, and make it general—may shorten it in another way. My view of the police department, when I went into it was that we had opened a new set of books. The old books were extinguished, so far as I was concerned, and we started fresh, and I judged the men as I found them when I went in the department, and I am judging them so yet. If any man in the department has conducted himself to merit my confidence since I have gone in there, I have paid no attention to what he did before I went in there and care nothing about it, because I find that is a rule that was followed by yourself and other commissioners that were there.

Q. Are you judging Mr. Devery now by his conduct of affairs as chief of police? A. Certainly.

Q. You are satisfied with him? A. Yes.

Q. Perfectly? A. I think Devery is a good police officer.

Q. Do you think he is the best choice you could have made? A. I think, under the circumstances, yes. There may be better men in the department than Devery. There are better men in the world than you and I, and there are a good many are worse than the whole three of us.

Q. That ain't the point. In the light that you have seen and heard, you are perfectly satisfied with Mr. Devery as a chief of police? A. Perfectly satisfied with him as a police officer.

Q. That is all I want to get now. I will read you a report of your statement as published in the newspapers, which you spoke of a minute ago: "So long as I am president of the board and the chief performs his duty I will never vote to retire him. He is doing his duty now. In fact, he has done more than any of

his predecessors ever did, and I know what I am talking about, and I will never vote to retire him." Did you say that? A. I think, substantially, I did; if you read it correctly as it was reported at the time.

Q. Yes, it has been copied very carefully. A. It is substantially, of course. I don't remember the exact language.

Q. There was a vote taken on the question of his retirement, which did not succeed, wasn't there? That is, before Mr. Phillips and Mr. Hamilton was retired? A. I think that is right.

Q. There were attempts made to retire him and they failed by reason of the commissioners breaking even? A. I think you are right. I think there was one occasion where the motion was made on the retirement. That is my recollection of the matter. The records would show that.

Q. Well, even before those fruitless efforts to retire him, there were rumors being published in the newspapers that that was the plan of the Democratic organization to get rid of him and put Devery there; do you remember that? A. I remember there were such statements in the newspapers.

Q. And do you remember that Mr. McCullagh went to you personally and spoke about those rumors and you said: "I will not violate my oath of office; no matter how strong the pressure may be I shall never yield. These gamblers or policy games are no good whatever to any political organization, in my estimation. In fact, I believe they are a great detriment to it. Before I yield they can have my resignation." Did you say that? A. No.

Q. Did you say anything like it? A. No; I have no recollection of ever saying anything as you have read it. I am pretty positive I never made the statement contained in the beginning and the ending of that. I state that, mark you. I am not given to talking that way. You can state the thing as emphatically as you wish it to be stated in reference to my instructions to McCullagh about this gambling business, and you can say also I may have said to him, as I probably did, that there was no influence that could swerve me one iota from that position, but when you say I talked about resignation, that I did not.

Q. Well, he went to you—he went to you when those reports were being published in the newspapers and spoke to you about them. Now, what did he say and what did you say? A. Mc-



Cullagh never spoke to me, according to my recollection of it, as to what I would or would not do in reference to himself personally.

Q. Didn't he speak of his prospective status on account of these rumors? A. In the department? Never.

Q. Didn't he speak of the rumors of his retirement? A. No, I have no recollection of his speaking to me about it—pretty clear that he did not.

Q. Now, let us see. You had a tie vote in the board, two commissioners voting to retire him and two voting not to retire him? A. That is my recollection of it.

Q. Then the mayor acted suddenly and removed the two commissioners? A. That is right.

Q. Do you remember that you had a meeting with those two commissioners on the very morning of the day they were removed? A. I remember the fact from looking at the minutes.

Q. You had a meeting that very day? A. There was a meeting that morning—Saturday morning.

Q. And at 12 o'clock on that day those two commissioners were removed. Do you remember that? A. I am not clear about the hour. It was sometime in the morning. If my memory serves me right I think the old board, as I call it, met at 10 o'clock in the morning and were in session but a short time, and then the removal of Hamilton and Phillips followed, and then we met.

Q. Then Mr. Hess came right down? A. Hess came and we three met.

Q. Were you expecting Mr. Hess? A. I never knew Mr. Hess was appointed police commissioner until he walked in the room and handed me his certificate of appointment.

Q. Were you expecting some new commissioner? A. That morning we did not.

Q. You met immediately upon his coming? A. We met immediately upon his coming.

Q. And voted immediately on his retirement? A. And voted immediately on his retirement.

Q. Why didn't you wait until the fourth commissioner came? A. I don't know why. My recollection is that Mr. Hess came up there with a messenger. I have forgotten who it was now. I

don't remember who it was. I recollect Hess came there with his letters.

Q. I know, but what was the occasion of the great hurry? Why didn't you wait for a full board? A. Well, there were rumors about an injunction.

Q. Oh, and you thought you would act with a rump board and get before it? A. A rump board? You and I won't agree on the rump board.

Q. I can leave that out. A. I think you can leave that out with perfect safety. It is not a rump board. It is a legal board; has the four.

Q. It produced a rumpus, anyway? A. It produced a rumpus. There is no doubt about the legality of the action.

Q. You looked that question up before you acted, to make sure it was legal? A. Yes.

Q. Where did you look? A. I looked as lawyers generally look at those things, and consulted lawyers whom I thought would be pretty good on that.

Q. Whom did you consult? A. A gentleman who generally acted with me in law matters.

Q. Who was that; Mr. Whalen? A. No.

Q. Somebody in the corporation counsel's office? A. No.

Q. Private counsel? A. Judge Clement. Judge Clement and our firm are connected in law business.

Q. At what time of the day. A. When I say I consulted him, perhaps I had not ought to put it in the sense of going and looking for counsel, but we consulted on many of our private law matters.

Q. Where was that consultation held? A. If you call it a consultation, in my Brooklyn office.

Q. Before you left for police headquarters? A. On the morning prior to the action.

Q. You are a little ahead. At 10 o'clock you had a meeting of the board? A. Yes.

Q. And at 12 o'clock two members were removed? A. Yes.

Q. And shortly after that Mr. Hess came down and you had a meeting at once and removed Mr. McCullagh? A. Yes.

Q. But you had already examined the legal side of that question? A. No, excuse me.

Q. Well, when did you? A. We probably got ahead of one another on that. I had not looked at the question of the right of three to act at that time other than the general knowledge I possessed as a lawyer that a majority of a board under the general statute had a right to act.

Q. When the board has been partly destroyed, a bi-partisan board? A. I think they have, provided three vote.

Q. When there was only one of three representing the other party? A. I think so. I do not think the law recognizes that question, as involved in it. I think the general statute permits a majority of the board where it consists of more than two to act the same as though there was a full board present.

Q. You consulted after you acted? A. Yes, I had no consultation, because I did not know that condition was to exist on that morning, that is about the three. When I said I had consulted, the question came up in other questions, involved in other questions, that is as to the board going on, and now, when I said consulted I don't want to be understood as saying by that, meaning I went to look for counsel. Judge Clement's relationship with our law firm was that of close counsel business, he was an able jurist, and we talked it over and looked it up, and that was the conclusion he came to, as well as myself, and that sustained the judgment I had.

Q. Did you at once make Mr. Devery acting chief? A. The same day; I think so.

Q. When was that, after that how many days, when Mr. Abell came down as a commissioner? A. Sometime in June—that is so I think; the minutes are here; I can refer to them, I think the 29th or 30th of June, and the first act that was done after Mr. Abell became commissioner was to make Mr. Devery's appointment permanent.

Q. That was the thing you were after, to make Devery chief of police? A. Took it for granted when he was made acting, the intention was to make it permanent.

Q. That was the point of the whole movement, wasn't it? A. I don't know.

Q. To secure his appointment? A. I don't know what you mean by the point of the whole move. It was the result of the whole move.

Q. It was the object of the move—that was the object of all the movements you have testified to, the removal of commissioners and the removal of McCullagh? A. It was not my object.

Q. Wasn't your object to make Devery chief? A. That was not the only thing that influenced me.

Q. What was the other thing? A. As I told you before the differences that existed between the commissioners and the chief.

Q. To remove a dissension? A. Yes, sir. I did not intend by any act of mine that there should be any continuance of what had been in the preceding board.

Q. How did your Democratic gentlemen succeed in getting those Republican commissioners to agree in the removal of Mr. McCullagh and appointment of Mr. Devery, a Tammany Hall man? A. I think they were sensible, wise men.

Q. They fell in with the order of things and made up their minds not to have any dissensions in the police board? A. I think so in that respect.

Q. You have heard what Mr. Sexton said with reference to Mr. McConnell. If he should testify—A. I would not like to say I had heard it. Sitting over there it was difficult to hear.

Q. Mr. Sexton made some accusations against Mr. McConnell on rumors, and it turns out Mr. McConnell has a pension, having been retired for disability; and I asked him if Mr. McConnell could testify freely in this matter, without any fear that his pension would be taken away? A. Absolutely as far as I am concerned.

**MATTHEW MCCONNELL, sworn:**

By Mr. Moss:

My name is Matthew McConnell, I am a retired police officer of the department. I was retired October 25th last, for disability. I had been on the force twelve years and nine days. I am living now at Lord's Valley, Pike county, Pennsylvania.

Q. Mr. Sexton stated here on the stand that he moved for your transfer because he had heard that you had done wrong things as a police officer. Could you hear his testimony? A. Yes, I heard part of it.

Q. Were you ever accused by Mr. Sexton, or by any superior officer, with any misconduct as a police officer? A. No, sir, not until then, not that I ever knew of. He did not speak to me about it. I was never accused by a superior police officer of any improper action as a policeman. At that time I was doing duty on Inspector Brooks' staff. Inspector Brooks never found any



fault with me. No chief of police did. There was no ground for finding any fault with me as a police officer that I knew of. I have retired and gone to Pennsylvania; I have not retired with a fortune. I did not; I wish I did. I have nothing. I am depending upon my pension, and I have absolutely nothing else, not a thing. I have improved somewhat in health, I am improving. I think I could now do police duty. I could not prevent being retired. The surgeons examined me and pronounced me unfit for duty. While I was acting upon Inspector Brooks' staff he sent me to investigate a poolroom at 54 West Twenty-ninth street. The chief of police at that time was John McCullagh. Inspector Brooks told me that the chief had informed him that there was a poolroom running at full blast at 54 West Twenty-ninth street: "I want you to go up there and investigate it, and if you can get evidence report it to me; if you cannot get evidence see that it is closed." He said a man by the name of Farrell he was informed was running the poolroom. I went there and rang the bell and a party came down and opened the door, but kept a chain on the door and asked me what I wanted. I told him I wanted to see Frank Farrell as I knew Frank Farrell for many years. Frank Farrell himself came down. I knew who he was. He said what is the matter, "Mac?" I said: "The inspector has been informed by the chief of police that you are running a poolroom here," and he said "That is right; what of it?" I said: "I have been told to come up here, and if I can get evidence to get it, and if I could not to have the place closed; but I know you know me and I couldn't get in. If this place is open twenty-four hours from now the inspector told me he would come up here with an axe and chop the doors down." Well, he says: "You know who is running this, don't you?" I says: "I know you are running it, for you have admitted it." He says: "It ain't me; it is the big fellow." I says: "I don't know who you mean." He said Tim Sullivan was running it. I said: "I don't know anything about that, but you had better close it." So he pulled some money out of his pocket and he wanted to fix it with me. I told him I was not there to fix anything in that matter, but I was there to see the place closed, and I walked out and I reported to Inspector Brooks that Frank Farrell was running a poolroom there. Farrell told me I would hear from it. I would be told to stop the next day. I said: "If I am told to stop I will guarantee I will not come back." I was not told to stop; I was told to continue. Mr. Farrell asked if he could fix the chief or Mr. Brooks through me;

and I said he could not. About that roll of bills, I could not tell. I didn't know how much it was. He offered it to me, and I shoved his hand away and the money fell on the floor. He said that he would communicate with the "big fellow," as he called him. He said he would telegraph to him and that he would be down to-morrow. So I went back and I reported to Inspector Brooks that the poolroom was running, at least he said it was, but that I could not get in, for the man knew me and he had known me for many years. I saw Senator Sullivan at police headquarters the next day. He was going up stairs. He went into Commissioner Sexton's room. I went to Farrell's again the day after that. Mr. Farrell says: "Haven't you been told to stop." I says "No, I have not been told to stop, but I have been told to go ahead." So he says: "I would not advise you to go ahead or bother about this place; it won't be good for your health." I says: "I am very healthy about this time, and I will go ahead just the same." I recognized that was a serious threat. I knew it before I went there that if it was a fact Frank Farrell was running the place that I would not be very safe to bother with it. I imagined it; I did not have any particular reason.

Q. Was it on account of the general knowledge in the department that it is unsafe to interfere with things, disorderly or illegal things, in which politicians are interested? A. Well, not that exactly, but I thought he had more influence than I had. It was a matter of influence. Well, he told me before they got through with me that I would not be in the business, and it proved true, for I am not. The place closed up. I saw that it was closed before I reported sick. I was not feeling very good at the time. This trouble did not have anything to do with my getting sick. That did not make me any sicker. At the second interview Mr. Farrell spoke of Mr. Brooks. He said he would not be made deputy chief if he kept trying to push anyone in there. I first learned that I was to be transferred, I don't know just the date, but I think it was in February—the latter part of February. The chief told me that he was ordered to transfer me. I told him that I had expected I would be transferred. He asked me why and I told him why. I told him all about this matter. He said he would have to have a reason for transferring me.

By the Chairman:

Q. That was McCullagh? A. Yes.

By Mr. Moss:

He said he would not transfer me until he got a reason, and what the reason was. I was transferred to the Second precinct. The chief transferred me to the Second precinct. I received some information from Mr. Curry, John Curry, a saloon keeper on Ninth avenue; I spoke to him about it after I had been reported permanently disabled by the surgeon. I said that I could not afford to stay in the city, and if I could get retired I would be glad to leave the city and go out in the country, as I would rather be in the country and was not fit to stay in the city. He said if he could do anything for me he would. He told me he would see what he could do, but he finally failed to be able to do anything. I asked some other persons to help me. I asked several, but I cannot recollect now just who they were. I did not get retired for some time, not until three months after I had been passed on by the surgeon, and, of course, I was trying all the time to see if I could be retired. So long as I knew I had to get out of the business I wanted to get out as soon as I could.

By Mr. O'Sullivan:

I had lung disease, and I hurt my back, and it is not well yet. It did not in any way interfere with my mental operations. I believe my memory is just as good as ever. The trouble with my lungs was, I could not say exactly. I got a very bad cold and I was not able to perform police duty very well. I did have night-sweats. My head was not affected during the prevalence of those night-sweats. I never was delirious, never got that bad yet. My lungs are not altogether better now. I sometimes have very bad attacks. I never spoke with Commissioner Sexton after my transference. I did speak with him before my transference. I was transferred from Inspector Brook's office about two months previous to my meeting Mr. Sexton; I was sent over to the Eighteenth precinct. After I was over there was when I got hurt. Well, I was on the sick list for about a month, and I finally asked Alderman Harrington if he could do anything for me, in regard to getting me back to the central office; that I would not have to perform patrol duty there and I might be able to continue my work. He said if he could do anything for me he would, and to meet him in the morning and we would go down and see Commissioner Sexton. So I met him and he brought me down to Commissioner Sexton's office, and that was the first time I ever

met Mr. Sexton to speak to him, and the last time. The nature of that conversation was not unpleasant at all; he was very pleasant with me. He didn't show any animus against me, none at all, sir. I was transferred that afternoon back to the central office. I suppose that he did it; I didn't know. I was transferred on my own plea that the duties would be less arduous there for me. I never had any conversation with Commissioner York at any time, never spoke to the gentleman in my life. The reasons Mr. McCullagh gave for transferring was he said Commissioner Sexton asked for my transfer. That was the only reason he gave.

By Mr. Hoffman:

Q. You stated that no police official ever made an accusation against you. Is that so with regard to a citizen? A. By roundsmen I had about three, I guess, or four, within twelve years; not for about five years before I was retired was any complaint made against me; at no time.

By Mr. Moss:

Q. What was the total days' fine in all your cases? A. One complaint I got from a citizen; I was fined thirty days. In the rest I was only fined three altogether.

By Mr. Hoffman:

Q. What was the charge? A. Charged me with assault. That was shortly after I came in the department, about twelve years ago or more. The other cases were disciplinary cases, half an hour absent from patrol was one, and failing to find a dead dog on the last tour, when it was covered with snow, was another; and I don't just remember what the other was. I don't think there was any accusation of disciplinary or other offense within five years of my retirement. There were no charges made in the police department shortly before my retirement. There were none made against me that I heard of.



JOHN McCULLAGH, sworn:

By Mr. Moss:

Q. I was formerly chief of police. I was chief of police for a short time before consolidation. I was appointed acting chief on the first day of January, 1898, upon the consolidation of the greater city, by unanimous vote of the members of the board. The members then were Messrs. York, Hamilton, Sexton and Phillips. There was an understanding between President York and myself in regard to our attitude toward gambling and the suppression of all vice in the city. But outside of that there was no other understanding whatever with the members of the board or with the mayor as to the way in which I should administer my office. I had no political understanding with anyone, none whatever. In assuming my position or at any time while I was chief of police in either department I did not have any political understanding with anybody, political, official or otherwise. I took my office in the old city absolutely unpledged in any direction. I was made chief by three members of the board—the old board—on August 25, 1897. I did not owe my appointment then to any political agency or any political force whatever, to the three members of the board only. I knew nothing at all about it until I was called upstairs that morning when I was made chief of the greater city. I was not in any sense responsible to or beholden to any political agency whatever. I felt myself in both of those departments absolutely untrammelled as to political influence. I know what political influence in the police department is, I think so, and I know that it has been a matter of rumor for years that political considerations have influenced police officers in the performance or non-performance of their duties. I recognize that. I positively did not owe my appointment to any political organization and to any politician. That understanding with Mr. York was this: I called the captains together of the greater city after the consolidation; I think it was about the eighth or tenth of January; I assembled all the captains of the different boroughs and Mr. York addressed them and told them the policy of the board, what it would be towards gambling, prostitution, etc. After that I had a conversation with Mr. York, and he assured me that he would support me in every way and if I could get evidence against any official he certainly would be the first to put him on trial. That was the understanding. I had been in the department when I was made

chief of Greater New York twenty-eight—twenty-seven going on twenty-eight years. As to charges and trials, I had about five days' fine; that is all that I can recollect. Five days' fine during the whole twenty-eight years. The last fine was when I was a patrolman in 1870 or 1871, I think. As captain I had charge of many different precincts in the city, and some difficult precincts, and I was acting inspector of the department for two years and three months, so that I learned practically the duties of commanding captains in their various precincts. I think I was thoroughly well posted in all matters relating to the composition and management of the police force. I had not any accusations standing against me, nor any trials in criminal courts, nor any dismissals from the department, nor anything of that kind, my record was entirely clear of any such matters. I endeavored to manage the police force without reference to the politics or the political preferences of the various subordinate officers. The mayor, according to my recollection, asked me what were the politics of the superior officers of the department. I told him I didn't know; I would have to think it over. It would be utterly impossible for me to have known just at that time. You must take into consideration, Mr. Moss, that the greater city had been formed; I did not know the personnel even of the captains of police in Brooklyn. I was a very busy man after January first; I reorganized the departments, consolidated it rather into one force; I laid out the various districts, inspection districts, got up new uniforms, and up to that time I had no personal knowledge whatever nor could I have any means of ascertaining the politics of the men in the department, the various captains. I was so engrossed with the important responsibility and multifarious duties of organizing this new police force for the greater city, that I had paid no attention to the political preferences of the men, none whatever. I did not consider that to be any part of my duty. I told the mayor I would have to think it over. "Well," he says, "how many inspectors have you got?" I said: "Ten." He said: "What are their politics." I said: "I would have to think it over." He said: "Go ahead," I tried to, but I didn't succeed in getting very far—four or five—I couldn't tell what politics. He says: "Do you call that bi-partisan?" I said: "Why Mr. Mayor." I says: "I have got no way of finding this out." He says: "You are not abreast of the time." I said: "Not as a politician, Mr. Mayor; I am a police officer." And then he said: "You ask Mr. Hamilton if he did not tell me this morning that

he would not transfer a police captain, except Mr. Platt or Mr. Quigg ordered him to do it?" I said: "I will not ask Mr. Hamilton anything of the kind; Mr. Platt, Mr. Quigg or Mr. Hamilton has got nothing to do whatever with the transfer of a police captain, and if your honor imagines for a moment that there is a police captain being held up by any political influence name the man, and I shall transfer him right here in your presence, right here in this office." He says: "I won't ask any favors of you." "I didn't ask you to." I says: "I simply made the suggestion, your honor, to show you I am not playing politics." He accused me of playing politics and I told him I was not. It was published then in the papers that the mayor had sent for me. He did not send for me, but I had heard of all the controversy that was going on, and about the transfer of Captain Herlihy—upstairs there had been some trouble. I was never consulted about Herlihy's transfer; it never occurred to me, nor was I asked to transfer him. As chief of police I thought it was a duty I owed to myself, I thought it was a duty I owed to the police department to see the executive officer and explain the condition of affairs to him. I understood Mr. Hamilton had been down and this accusation had been made and I wanted to show to his honor and I wanted to explain the Herlihy matter that I had not been consulted, I was entirely independent of any politician whatever, and I was not playing politics. That was the object of my visit to the mayor's office. I offered to prove that. I offered to transfer any police captain right there that he imagined or that he heard, or it was even suggested was being held up. He spoke the names of Mr. Platt and Mr. Quigg.

Q. Or other gentleman as influencing your action? A. He did not. I said to him that I would not transfer a police captain for Mr. Quigg, Mr. Platt or Mr. Hamilton, nor even for the board of police, except for good reasons, because that I thought it belonged to me as executive officer of the department; that I had that right and I was going to assert that right so long as I was chief, and I would not play politics. I felt that by retaining the power of transfer of captains I was keeping the police force out of politics. I had a conversation with Mr. York about that. I told him that there were rumors, in fact it was published in the papers from time to time, as usually it occurs, that there was going to be a general shake up of police captains and police inspectors—great shake up, and that has a tendency to demoralize the force; the men are on the anxious seat all the time, the captains are, the

force is generally. I spoke to Mr. York about it and he told me then "you are right." I also spoke to Mr. Hamilton and told him "it is very likely, Mr. Hamilton, that some influence may be brought to bear on me in regard to the transfer of police captains and inspectors. I want to say to you now I don't want any disagreeable feeling, nor I don't want to be approached in that matter. I want to say to you that I will not, so long as I am chief of police, transfer any police captain, or inspector of police, for any outside influence. I did tell the mayor that my action was entirely clear of the influence of Mr. Platt, Mr. Quigg, or the other gentlemen whose names were mentioned. He repeated the thing again to go and ask Mr. Hamilton. He became very excited. The mayor did not intimate in any way how I could help the political preponderance in the police department, whether there were more Republicans or more Democrats. He simply accused me of playing politics and asked me if that was bi-partisan. I tried to name some of the inspectors, but he did not give me an opportunity to do it—to complete the list.

Q. You had not made them inspectors? A. I had made some; I had recommended some.

Q. Under the former board? A. Under the former board when you were president; I recommended five of the inspectors in the borough of Manhattan.

By Mr. Hoffman:

Q. Who were they? A. John H. Grant, Inspector Cross, Inspector Brooks, John J. Harley and one more.

By Mr. Moss:

Q. Mr. Thompson? A. And Inspector Walter W. Thompson; yes.

Q. Isn't it a rather difficult thing, Mr. McCullagh, to keep the bearings on the politics of police captains? Don't they change quite frequently? A. It is quite difficult.

Q. Rather a difficult thing? A. Yes.

Q. It is a difficult thing for the police captains to stand out against the politics of the controlling influence of the board of police, isn't it? A. Well, Mr. Moss, I think I will have to speak for myself on that question; you will excuse me, please. I do not care to go into the uniformed force, except as it applies to myself. I would rather not answer that question. I was spoken to about



the desire to transfer Captain Herlihy. Mr. Sullivan asked me to transfer him after the first of the year. I mean Timothy D. Sullivan, Senator Sullivan. He asked me to transfer Captain Herlihy. That was the case of a politician asking for the transfer of a police captain, you might call him a politician. He is the leader of his district. I told Mr. Sullivan I would not transfer him.

Q. Did you know at that time that it was stated that Captain Herlihy had offended some of the politicians in that district? A. Captain Herlihy came to me and told me that he was about to be transferred, that he had heard he was going to be transferred. I told him to pay no attention to it whatever, that he would not be transferred. That was in January. He came back to me again, I think, in February or March, I am not sure, about a month or six weeks afterwards, with the same story. I told him to pay no attention to it whatever, to go and attend to his duties, that he would not be transferred until I said so; and, well, that is all. I refused to transfer him while I was chief of police. I know, as a matter of fact, that he was transferred the very day I was retired. I don't know that it was that day, but I know he has been transferred since that time—a short time afterwards.

Q. And didn't he state that the reason of the demand for his transfer was that he had closed a poolroom in the Café Manhattan, in which some politicians were interested? A. He did not make any specific complaint to me.

Q. Wasn't that mentioned? A. No; I can't remember that, sir.

Q. You don't remember it? A. No; I don't remember it.

By the Chairman:

Q. Whereabouts is this Café Manhattan? A. I think that was in Fourteenth street.

By Mr. Moss:

Q. Eighth street, wasn't it? A. It may have been, but I really don't know; I cannot recall that; he didn't make any specific complaint to me, Mr. Moss, but he did say there were rumors about his transfer, and said to me a certain element was bound to get him out of the precinct. I would not transfer him; I made up my mind I would not transfer any police captain on the request of any person. The precinct ran down to Houston and from Third avenue, I think, to Fourteenth street and Avenue A. While I

was chief of police I made an earnest effort to prevent gamblers from operating in the city. I made efforts specially against gambling in Long Island City. I did not hear any complaints because of my activity in that direction. Not from Long Island City; no, sir.

Q. Well, where did you hear complaints? A. Well, it was general rumor—general complaints, that I was interfering with gambling. The kind of gambling mentioned particularly was pool-selling. Mr. Sexton first spoke to me about transferring Policeman McConnell from Inspector Brooks' staff. He told me that McConnell, he believed, thought he was not right, he said. I asked him what was the matter. "Well," he says, "I think he is doing crooked work." I asked him where. Well, he said he didn't know, but he had heard so, and it would be better to transfer him. I sent for Inspector Brooks, who was his inspector, and I said to him—to Brooks—"You have got a man named McConnell down in your office," and he said "Yes." I says "Do you know anything—what he is doing—doing anything wrong?" He says "No; I haven't heard of anything." "Well," I says, "complaint has come to me through Commissioner Sexton that he is not acting properly, something wrong about him with regard to gambling houses"—well, I don't know as he said gambling houses, I can't recall; I want to be straight about it, and Brooks said to me: "If you transfer that man you will transfer him for doing his duty." I says: "Why, what is the trouble?" "Well," he says, "I sent him up to 54 West Twenty-ninth street, to Frank Farrell's poolroom, and he has been endeavoring to close that and there is quite a feeling existing against McConnell in regard to his attitude towards that poolroom." I says: "Are you very sure about that?" He said: "Yes, and threats have been made to transfer him." Well, I told him "very well, let Mr. McConnell go ahead and do his duty; I will investigate this thing a little bit further." About a week afterwards Mr. Sexton again asked me if I had transferred the man. I said, No, he was on the sick list, that I had not transferred him. "Well," he said, "I wish you would transfer him." I says: "Very well; he is on the sick list now, when he comes back I will investigate a little further, as I said before, and I will see about it." About, I think, ten days after that again Mr. Sexton came down one morning, called me on the 'phone and asked me if I had transferred McConnell. I told him no. He says: "Why not?" He says: "I want you to do it to-day." I said: "I will see about it." He

says: "You will see nothing about it; I order you to do it now." I says: "I will see." So I went up and saw Mr. Sexton and he was very pleasant when I went in the room and said: "Why didn't you transfer this man McConnell?" I said: "He is sick." He said: "He is not sick." I says: "Yes he is." He called in his patrolman, McGurr, and said "have you been to McConnell's house last night?" He said: "Yes." "Did you find him there?" He said: "No." "Now" he says, "didn't I tell you McConnell was not sick?" I said: "Mr. Commissioner, he is sick." Two weeks prior to that time Mr. Sexton had voted on a resolution to place McConnell before the board of police surgeons for retirement, and he had not been doing duty during that time; he had forgotten all about it, and yet he investigated him. So then he said in the presence of Mr. Hamilton—Mr. Hamilton tried to pacify him a little bit—he said: "Well, I order you to do it now." I says: "I won't do it." He says: "I will make you do it." I says: "You will not; I shall positively not transfer him." Then I think that day he offered resolutions in the board ordering me to transfer McConnell. The resolution was lost, Mr. York and Mr. Hamilton voting against it—I think Mr. Phillips was absent that day—Mr. Sexton for it; but the resolution was lost; and a few days afterward the resolution was offered to transfer him to Jamaica, by Commissioner Sexton, I believe. Now, no patrolman had been transferred from any borough to another, and I did not think it was exactly fair to transfer Mr. McConnell down to Jamaica. I went up and I saw President York. I told him: "Now," I says, "Mr. President, I don't wish to create any bad feeling in this board, but yet as chief of police I cannot afford to transfer this man to Jamaica. It has gotten around through the department that this man is to be transferred and to be persecuted; that is the rumor. Whether it is true or not I have no means of finding out, but as chief of police I cannot afford to transfer him and I will not do it." I want to say that my relations with Commissioner York were of the most friendly nature and a more agreeable man I never met; we got along very nicely together, no better; perfectly honest, frank, straight, sincere and forward in every action of his he was with me; a more agreeable, as I said before, I never met. "Well, chief," he said: "I wish you could straighten this matter out some way or another." I says: "Mr. Commissioner, I would like to." He says: "You know Mr. Sexton is a little bit impulsive; I think," he says, "you can straighten it out somehow." I says: "I will look it up, but

I will not transfer him to Jamaica." A few days afterwards the resolution was modified, that I be requested to transfer him. I think the resolution was offered by Commissioner York, that I be requested to transfer him—not directed or ordered, but I be requested. Mr. Hamilton—I suppose he was sparring for a little peace and quietness, also voted to transfer him and so did Mr. York—to request me to transfer him, and Mr. Sexton voted against the request. I suppose he wanted to stick to an order. I told Mr. York that when McConnell reported for duty I would transfer him to some precinct in the borough of Manhattan. He did not report for duty, having been ordered before the board of surgeons, and I took it into consideration that he was not any material benefit at all to Mr. Brooks in his office, not being on active duty, and having but a small staff there with the inspector, and doing special work, so I transferred him to the Second precinct down in Church street. I remember when it was rumored that I was going to be retired and Mr. Devery made chief of police. It was all in the newspapers for some time before it occurred. I went to Mr. York and asked him about it. When I went into Mr. York's room a reporter of the Associated Press was present and Mr. York was very indignant about it. I had a conversation with him. I told him it was very detrimental to discipline under my predecessor, Mr. Conlin; it was rumored every month or every two or three months for a whole year he was going out month after month; I knew the effect it had on the department. I spoke to the commissioner about it; he was very indignant about it; said it was absurd, it was all rot. A reporter came in, Mr. Snyder, he made a statement, as well as I can remember. I heard him read a statement somewhat similar to it, he did make such a statement, that is, "so long as I am president of the board and the chief performs his duty I will not vote to retire him; he is doing his duty now; in fact he has done more than any of his predecessors ever did. I will never vote to retire him." That is correct, as well as I remember it. I remember another conversation with him in which he said he would not violate his oath of office. That was about two weeks before I was retired. I told Mr. York that the old rumor was out again that I was to be retired, and in fact that I heard that he was to be removed; that great pressure was to be brought to bear on him to retire me; a certain element in the city was very much displeased with his actions and mine, and he made the statement, as well as I can remember; our attitude toward poolrooms; that



is what I meant. He understood it. He was very indignant; he got up from the table where he was sitting—from his desk—and walked over to the window smoking a cigar at the time—he said: “Chief, people of that class of character are a detriment to any organization; any organization is better without them;” and he says: “I will not violate my oath of office for any man or any organization, no matter what the pressure may be.” “Very well” I says. Mr. York says “I will resign first.” I says: “I will resign too. I had absolute confidence in Mr. York. I want to say here again that if my life had been at stake instead of my position there is no human being could have come to me the night before and told me York would have voted against me, so great was the confidence. I would not have gone near him; I would have been ashamed to have gone upstairs; in fact I have never gone near him from that day, from the day I was retired—I had such implicit confidence in the man; there was a thorough understanding existing between us; no friendships at all, but it was open and above board. I felt that he had the same spirit that I had in the performance of duty. I did, sir, positively. And when he gave me that assurance I relied on it, I believed him—I believed it then. I would have felt it an insult to have gone to that man with those feelings and questioned him any further, I positively would. He told me then that he had a conversation with Mr. Croker before he went to Europe. He said: ‘It is all nonsense about your retiring.’” “Why,” he says, “I had a conversation with Mr. Croker before he went to Europe and he told me, he says: ‘York, you just stand as you are; the department is going along just right;’” something similar to that—that is the substance of it, I know. When I learned that Mr. York had voted for my retirement, I went and spoke to him about it. Before I was retired I had a conversation, I think, two or three days. I went up to him when I heard there was a vote taken to retire me and it was two and two. Then I learned he had voted against me. I went up stairs and I went in to see him on another matter. Mr. York said to me: “Chief sit down a moment, I want to talk about something that concerns yourself, very important.” I said “What is it Mr. York?” He says: “I am very sorry to inform you that a board resolution was offered to retire you to-day. I want to say to you right here that I never did a more painful thing in my life.” I said: “Why did you do it?” “Well,” he says: “I might as well be frank with you, it is politics.” “Then,”

I said, "there is no other alternative, I suppose." He says: "No, I don't see any other hope for you." "Then I am to be retired." "Yes." "Well," I said, "Mr. York you knew the understanding that existed between us." He says: "Chief, I do not want really to discuss it; it is too painful to me. As I said before, our relations have been most friendly; I do not care to discuss it." "Well," I says, "Mr. York, I would rather be in my position than yours; this is the beginning of the end; remember from this day this department will go down; you, nor no other commissioner, nor no other chief of police, can run this department so long as you let any outside things like that come in; it is impossible. Financially, Mr. York, you are an honest man, but this act is cowardly." That was the last. We left good friends; we are all right now; I have no feeling at all against Mr. York—none whatever. I feel that he was compelled by a superior power, I positively do; that is just all and I do not believe, although people have told me, well, the usual story to use a slang phrase, "York gave you a gold brick." He did not, he was honest about it. I think he meant it when he told me he would stand by me. Nobody will ever make me think anything else until I have some proof to the contrary; I know he was honest about it.

By Mr. O'Sullivan:

I was installed as chief the 25th day of August, 1897. Previous to that of chief I occupied the rank of captain of police, acting inspector. It took me to grade from captain to chief of police about three minutes. I suppose as long it takes to get up a resolution and present it. I did not pass any civil service examination. The members of the board that elected me, or voted on me, to be chief were Frank Moss, president; Avery D. Andrews, treasurer; Colonel Moore Smith and Andrew D. Parker. I made no pledges previous to my election. I knew nothing at all—there is the man right there (indicating), Mr. Rathgaver, a patrolman in Mr. York's office, who first notified me I was made chief of police, going up in the elevator. The subject had never been boached before, never to me.

Q. You had never had a conversation with Mr. Parker about it?  
A. Oh, yes; many conversations; yes.

Q. Did any conversations occur between you and Mr. Parker, in relation to promoting you from captain to chief, in which you made any pledges? A. Yes.

Q. That is all. Mr. Parker was a Republican member of the board? A. He was not a Republican; never was; he never belonged to an organization in his life. Just right here, about Mr. Parker, I will make a little explanation. Mr. Parker did try to get pledges from me. Mr. Parker opposed me in the board for two years and three months, and he tried to get pledges from me, and he tried to go further with me than pledges, but I positively and absolutely declined to do it, or to accept his propositions.

Q. And you never made any pledge to Mr. Parker? A. I did, the same just as exactly, Mr. O'Sullivan——

Q. Had you made any pledges to Mr. Parker when he was police commissioner, contingent on the elevation of yourself from the captaincy to the chief of police? A. I could answer that question yes and no.

Q. Did he hold your resignation, written by yourself? A. He did not.

Q. Are you positive of that, Mr. McCullagh? A. Yes, sir; he did not. He wrote out a resignation and endeavored to get me to go into a corrupt scheme with him to hold up the department, as he held it up for two years and three months. I never would have told this on Mr. Parker, but you brought it out. He wrote it himself, very cunningly, and I want to say to you that Mr. Parker was not on the level with me, the thing was not in good faith, and I took a gentleman into my confidence, a man like yourself, whose word could not be doubted, in good standing, and told him exactly what I was going to do, and I told him that at the Times Building, down there on a rainy day in August, and I shall never forget it. He told me to be cautious about what I was doing. I said: "I know my man; I am going after him and will resort to all police methods, the same as I go after an ordinary criminal; I am going to get him; he has persecuted me for two years and three months and he has ruined the police department." Then, sir, he wrote out a fake resignation on the back of a grocery paper, and when he thought he had me to enter into this corrupt bargain—I was never consulted by any other commissioner, or by any other man, had not a soul to consult or anybody to depend upon, and I left his office, but before I left his office he handed out to me an official document of the police department—I told him: "No, sir; under no consideration will I do it; you have ruined me—tried to ruin me for two years and three months; you fooled the mayor, you fooled the press, you buncoed everybody; you are up now against a policeman, a man who has

got a little bit of brains, but not much, but not quite so cunning as you are."

Q. You said that to Mr. Parker? A. I did so.

Q. Did Mr. Parker, subsequent to that, give out a copy of that resignation and claim that it was in your handwriting and give it to the press? A. No; but he tried to pin it on the wall so they could see it, but he wouldn't stand for it and he went over to Jersey.

Q. Did you go to any newspaper office in this city and implore of them not to publish a copy of that? A. I positively did not, but a newspaper man came to me, and I told them to get Mr. Parker's signature on that document, but under no consideration to publish it, because it was a malicious libel and done with the intent to injure me in my position, and the newspapers that he did try to give it to positively declined to have anything to do with it whatever.

Q. Then you had decided friction with Mr. Parker when he was police commissioner and you were chief of police? A. None whatever.

Q. All this did not amount to a friction? A. Not a bit. I told him I was going to do police duty.

Q. In relation to Mr. Hamilton, why did you warn him against going to you to advocate anyone's promotion? A. Not promotions, I did not; I said transfers of police captains and inspectors.

Q. Why did you warn him against coming to you on any such business as that? A. Because certain rumors were around that there were going to be transfers, and in years gone by it has been the custom in the department, in fact the board made transfers, but after the Lexow investigation there was a bi-partisan bill passed, which placed that power in the chief's hands.

Q. Did you make that warning to any member of the police commissioners? A. I had a conversation with Commissioner York about it and also about the detective bureau and told him that should be left entirely with me; that I thought I had better judgment in selecting detectives than probably some members of the board, and he fully agreed with me that I was right—fully agreed with me.

Q. In relation to McConnell's matter, did you hear McConnell testify here? A. I was sitting back there, but I could not hear what he said very distinctly.

Q. He made a statement in answer to a question of mine, and it substantially was that he applied for the transference himself on account of his health? A. That he what?



Q. That he asked to be transferred on account of his health?  
A. You mean retired.

Q. No; transferred? A. No; it could not be; a man would not ask——

Q. I am very positive on that point, he asked to be transferred where he would have less arduous duties.

The Chairman—He asked to be transferred back to the original place from which he was transferred, namely, Inspector Brooks' office?

Q. You didn't hear him testify to that? A. I did not, sir.

Q. Was there any discussion in relation to his health at that time, surrounding the events you have testified to in relation to McConnell's case? A. None; only what I had with Commissioner Sexton. Then I knew by inquiry from Inspector Brooks that he was on the sick list.

Q. When you said there was something wrong reported in relation to McConnell, did you have relation to his physical condition or to his mental condition? A. Something wrong; that is what the commissioner said; that his actions were not proper—some irregularities going on.

Q. Acted irrationally? A. No, no, no; regarding his official duties, I mean. Oh, no, Mr. O'Sullivan.

WILLIAM S. DEVERY, recalled.

By Mr. Moss:

I remember the day Mr. McCullagh was retired from the chieftaincy. I was that very day made acting chief of police, I think I was, and my first official act was the transfer of Captain Herlihy, that is right, from the Fifth street station-house way up to Kingsbridge, and to take effect that night at 6 o'clock. It is customary at times in transferring a captain to give him twenty-four hours' notice, so that he can move his effects, but in times of great importance I take a less amount of time.

Q. And it ought to be a matter of great importance where you cut down time on a captain, isn't that so? A. Not under the circumstances.

Q. Under what circumstances? A. The transfer of Herlihy.

Q. What was there about the transfer of Herlihy that made it the first act to be done? A. Well, I had no confidence in Herlihy.

Q. So that the most important police matter that was then pending was the transfer of Herlihy? A. That was also.

Q. Had you determined to do that before you were made chief? A. I did not give it a thought.

Q. You had not thought of Herlihy until you were actually made acting chief? A. I had thought of him.

Q. About transferring him? A. Not about transferring him.

Q. What was it that put it into your head to do that the very first thing, to give him two hours and a half notice to get to Kingsbridge? A. I did not think he was the executive officer to be in the precinct he was in.

Q. There were more important precincts than that? A. That is one of the most important.

Q. Who was then captain in the Tenderloin? A. Sheehan.

Q. You afterwards transferred Sheehan? A. I did.

Q. Why didn't you transfer the captain in the most important precinct at once? A. Well, I looked at Herlihy's case first.

Q. You looked at Herlihy's first; what was there about Herlihy that made it so important as to give that man only two and a half notice to get out? A. Had no confidence in him; he was sergeant under me in several precincts, and thought that precinct was too important for him to be in.

Q. Had anybody spoken to you about transferring him? A. No, sir.

Q. Was it of your own judgment? A. Of my own judgment; yes, sir.

Q. What was it that caused you to have no confidence in him and to break the rule of courtesy in the department? A. Well, I don't know; I don't want to say that just now.

Q. Can't you say just now why you didn't have that confidence in him? A. I didn't think he was the man for the precinct, and to the best of my judgment, as chief of police, I thought I would transfer him forthwith.

Q. You thought it so seriously and so severely you adopted a very severe measure with him and let him feel the weight of your hands the very first man in the department. What was it that caused you to do it—what was it that caused you to have no confidence in him? A. I told you he had been with me in precincts and I did not think he was the man to handle a precinct so important as the precinct he was in.

Q. There were more important precincts? A. Nothing much more important.

Q. Couldn't it have waited until to-morrow or the next day, or next week? A. No; I took it in my head to do it just then.

Q. You just took it in your head? A. Yes.

Q. You had just got it in your power and you made up your mind you would let the man feel it? A. It was not feeling; I thought he was not a competent man in the place.

Q. Are there not other men that are not competent as captains? A. You cannot say that; according to how they act in those precincts.

Q. Are there any other captains as incompetent as Herlihy? A. Well, that is to my judgment; when I get them in a precinct and find them not doing just as they ought to do I transfer them.

Q. How did you know he was not doing as he ought to do, as he ought to in that precinct; how did you know it? A. I knew from prior experience.

Q. He was a sergeant; how did you know he had not improved? A. I had not confidence in the man.

Q. What had you to do, officially, with Herlihy as captain that convinced you that he was a dangerous man to keep in that precinct? A. He was under me as captain of police.

Q. That was before, but I say while he was captain? A. As captain, I do not think now he is capable of handling a precinct of that kind, nor was not then.

Q. I asked you what official relation you had with him as captain to make you so certain of his inefficiency as to adopt that extreme measure? A. Virtually had none, other than I thought he was not competent to hold that place.

Q. If you had no feeling in the matter why didn't you notify him that evening to report at Kingsbridge the next evening? A. Well, in my judgment, I thought I would transfer him right away.

Q. Of course, I know that, but that captain had some little things of his own down at the station; all captains do, don't they? A. He could have readily shifted them.

Q. Oh, a little furniture and so on to be looked after, some things to be packed up, but he had just two hours and a half notice to get up to Kingsbridge; he could hardly do it in those days? A. No.

Q. If he had not got to Kingsbridge by 6 o'clock he would have been subject to charges, wouldn't he? A. Yes, sir.

Q. And you would have made a charge against him if he had not reported at 6 o'clock? A. I certainly would.

Q. You felt that much seriousness about the thing. Now, Mr. Chief, have you given us all the reasons why you went to all that pains to make your first official act the blow with the mailed hand? A. That is right.

Q. You have given all the reasons? A. That is right.

Q. And that was the blow with the mailed hand? A. Yes.

Q. And he had interfered with your friends in that precinct, hadn't he? A. No, sir.

Q. He had interfered with good organization men that were interested in poolrooms? A. He did not.

Q. You knew he had closed up the Manhattan Café poolroom? A. No, sir.

Q. Never heard of that? A. No, sir.

Q. What did you know about his precinct? A. I know all about him as a man.

Q. How did you know whether he had been doing his duty if you did not know he had closed up the Manhattan poolrooms? A. I was not in communication.

Q. Don't you think a police captain who does what you cannot do—closes a poolroom—is a pretty good captain? How many poolrooms have you closed up since we had our conversation the other day? A. The records will show that.

Q. That is the old dodge. Have you looked at the records since that day? A. I have.

Q. What do they show? A. I can't remember.

Q. Have you found out since our last conversation whether there are any poolrooms running? A. There is alleged poolrooms running.

Q. Have you found out whether they are running? A. If they are running and there is proper evidence got against them they will be closed.

Q. The department has coped with them? A. All the time.

Q. And you are holding your subordinates to a strict accountability, aren't you? A. Yes.

Q. From the same old stand? A. Yes, sir.

Q. Have you got a telephone put in on that corner yet? A. It ain't necessary.

Q. But people come there to be talked to, don't they? A. Yes, sir.

Q. Do you know about a gambling-house up in Forty-third street? A. Forty-third?



Q. Yes; kept by Johnson & Emery? A. I believe there is an alleged house of that kind reported.

Q. Since our suggestions to you the other day, have you been reading the newspapers to keep abreast with the times, to find out what criminal matters are going on? A. I read the papers.

Q. Do you read the Telegraph? Here is a Telegraph of May third? Do you read that occasionally? A. I do not read the Telegraph.

Q. I ask you the same question I asked Mr. Sexton a little while ago: Have you heard about Senator Wolcott dropping a good many thousand dollars to these gentlemen in their gambling-house on Forty-third street as detailed in this orthodox morning Telegraph? A. I heard a rumor to that effect.

Q. Where did you hear the rumor? A. I think I saw it in my clippings.

Q. What have you done about it? A. Referred it for investigation and report.

Q. To whom? A. The captain of that precinct.

Q. Has he reported? A. I think he has.

Q. Captain Thomas, isn't it? A. Yes.

Q. From whom you received a thousand dollars for the fund to go to Albany? A. A thousand dollars for what?

Q. Didn't you follow my question? A. It is absurd, Mr. Moss.

Q. Have you ever heard that these poolrooms that you cannot find also contributed money to your Albany fund—have you ever heard that? A. I know nothing of any Albany fund.

Q. Have you heard that they are supposed to have contributed money for you to handle? A. I have not.

Q. Never heard that? A. No.

Q. I ask your attention to the same documents I asked Mr. Sexton about, this Journal article. The Journal is orthodox—a good friend of yours? A. Perhaps so.

Q. You have no fault to find with the Journal? A. No.

Q. Did you read this article of March 24, 1899? A. Yes.

Q. And this article declares positively, not as a matter of rumor at all,—positively that there are three hundred—more than three hundred poolrooms in Greater New York, declares their manner of doing business, their way of protecting themselves, and declares that they contributed an immense sum of money to influence legislation at Albany. Have you ever investigated that? A. I did not give it any credit.

Q. You gave it no credit? Have you investigated it? A. There has been no complaint made to me touching on the matter.

Q. Isn't that a complaint? A. No.

Q. You don't count that a complaint, do you? A. No.

Q. And you do not propose to move until some man says: "I complain;" is that it? A. I have never heard of any money. I read the article. I have never heard of anything of that kind either from any alleged poolroom keeper you speak of or anybody else.

Q. Did you hear it or did you read what Mr. Croker said on the stand about poolrooms and what he expected you to do with them, and he expected you to close them? A. So we will, whenever we get the evidence.

Q. Did you notice that he said so? A. I did not.

Q. Did you get any message from him that he wanted you to close the poolrooms? A. No, sir.

Q. Then, so far as you know, he acquitted himself upon the stand and he has not communicated with you his desire that the poolrooms should be closed? A. It is not necessary for him to give me his desire. I do not take my orders from Mr. Croker; I am chief of police; I take no orders from anybody; I take no orders from anybody touching matters of that kind.

Q. But you would take a suggestion from him? A. I take no suggestions.

Q. Once upon a time his word, expressed in the right way, closed the poolrooms in a day. How is it that it has not closed the poolrooms in three weeks? A. Wherever we get the evidence against those places we proceed, Mr. Moss.

Q. Have you secured a case—have you made a conviction against any poolrooms since we last talked? A. There have been arrests made.

Q. Where? A. Various parts of the city. The records will show where they have been arrested.

Q. Yes; the records will show that an arrest was made at a place on St. Mark's place the other day, where a man who had played there went to the police court and complained; but is there any other arrest since we talked last? A. I will look at the records and go by those; I cannot give it to you off hand.

Q. I thought after the conversation we had, the pointed conversation, you would make a special thing of these poolrooms, and you promised you would do it. What have you done to redeem that promise? A. Commanding officers of various pre-

cincts and inspectors of districts were looking after those matters all the time.

Q. What have you done as chief executive officer of the department to redeem your promise? A. I am looking after the interests of four millions of people and seven thousand five hundred patrolmen and the details of the department. I have no time to do that myself. I look after the inspectors and captains of districts.

By the Chairman:

Q. Have you issued any orders? A. Issue orders daily on that matter.

Q. Will you bring down some of them? A. I will look up the matter.

By Mr. Moss:

Q. Listen to me and see if you have issued an order like this on the 13th of May. This is the 16th and the 13th was three days before the resumption of the committee's sessions: "May 13th, 1899. Captain James K. Price, Nineteenth precinct. Sir: No officers of this department, no matter what their standing may be, will permit themselves to be held in duress while under subpoena of the Mazet committee. Where they are under subpoena, and if denied the right of remaining in the room of the inquiry they have the right to remain outside in the corridors until called upon. Any officer violating the provisions of this order, or permitting himself to be so held in duress will be subject to complaint. William S. Devery, Chief of Police." Did you issue that order? A. That is correct; I did sir.

Q. And did you do that in all seriousness? A. I did, sir.

Q. Now, then, just let us see: On the last session of this committee we were inquiring into what has been called the police corruption fund, a fund alleged to have been raised by policemen and put into your hands to be used at Albany mainly in procuring and protecting your office. Those officers were under subpoena at the last session to testify on this matter. They were invited to occupy a certain room, where comfortable provisions had been made for them. The matter of inquiry touched you and your integrity, your honesty, and the only thing to be considered was the getting of those officers upon the witness stand in such a way that they would not hear each other testify and you knew it; and

now is this the way that you endeavored to prevent the officers from testifying without previous consultation? A. It was reported to me over the 'phone that my men were locked up in a room here and that they could not go to a closet without one of your gentlemen leading them to and from it; and I do not propose as chief of police to permit anything of that kind. If these officers came here and wanted to tell anything I was willing they should do so and permit them to do it. I don't care what they tell, but as chief of police I will not permit anybody to lock them in a room or permit nobody to lead them to a closet.

Q. Then you will punish them for what we did? A. I will not permit them to be locked up as public officers.

Q. Do you mean seriously to say that big, live policemen, twenty or thirty of them were locked up in a room and never made a complaint and never broke their way out? A. I am astonished that they did stay in there without doing so.

Q. Why don't you instruct them to break into some places? A. I would if I had the evidence to do it.



WEDNESDAY, *May 17, 1899*—10.30 A. M.

Committee met pursuant to adjournment.

Present: Mr. Mazet, chairman, and Messrs. Costello, Hoffman, Wilson and Boland.

THOMAS L. HAMILTON, called as a witness, being duly sworn and examined by Mr. Moss, testified as follows:

I was formerly a police commissioner, appointed by Mayor Van Wyck. I began to serve on the 1st of January, 1898. Our board chose the first chief of Greater New York, Mr. McCullagh. There was a motion to transfer a captain named Herlihy, I think that was the latter part of April or early part of May; I am not quite certain which. But it was about that time. The first I heard of it was when Mr. Sexton introduced the resolution in the board asking to transfer Captain Herlihy. That was before Mr. Devery was made chief. I don't know as he gave any reason for transferring him. I think he simply introduced the resolution, and the resolution was put by the president and defeated. That was the end of it, so far as I knew. I don't know of any other effort made to secure the transfer of Captain Herlihy; I can't say that I do, directly, Mr. Moss. I heard rumors that efforts were being made to transfer Captain Herlihy, but I can't prove it; I saw it in the papers. I know of no particular reason assigned in those rumors for his being transferred. It was not proposed to me that Chief McCullagh should be retired; it was a resolution introduced in the board, I think, two or three weeks after the Herlihy resolution was introduced; that was the first I heard of any proposition to remove McCullagh, any more than I saw in the public print. I had seen it in the public prints that he was to be removed; Commissioner Sexton introduced that resolution, the same man that wanted to transfer Captain Herlihy. I voted against the resolution, both of them. My colleague, Mr. Phillips, voted against it, to the best of my recollection. There was no discussion among the members of the board when the resolution failed, not to any extent. I think I asked what the idea was at having a resolution of that kind. In fact, when the resolution to

retire McCullagh was introduced, it took me so by surprise that it dumbfounded me for the moment. The board then immediately adjourned and that was the last I heard of it. There was no reason assigned for introducing a resolution to retire him. There was no accusation against him or any suggestion that he was inefficient. There was no reason assigned for retiring him, none that I heard. And while I was there in the board no one, no commissioner, or any city official above the commissioners, assigned, to my knowledge, any reason why Mr. McCullagh should be retired from his position. On the contrary, it is the fact that the president of the board, Mr. York, commended the ability of Mr. McCullagh. It was discussed usually between Mr. York and myself. Two or three times Mr. York and I discussed Mr. McCullagh, and Mr. York said he had the highest opinion of Mr. McCullagh, and believed he was one of the best chiefs New York ever had. The introducer of the resolution, Mr. Sexton, never did say anything to me, or within my knowledge against the ability and character of the man he desired to retire. I think the matter was not again broached to me after the resolution was lost by a tie vote that he should be retired. I did not know that I would be removed if Mr. McCullagh was not removed, but I was expecting it. I presumed that they wanted to make Mr. Devery chief, and in the event of my not voting for it that my removal would take place. I looked upon it as seriously as that, and I still persisted in withholding my vote from a resolution to retire McCullagh, because I believed the chief was a good chief.

Q. In other words, you put your sense of duty above the holding of the position to which you had been appointed? A. I did, sir; yes.

Q. And you persisted in your refusal to vote to retire him, knowing your official position was in jeopardy, did you? A. I thought it was; yes. I didn't really know because nobody told me. The first intimation that I had of the proposal to retire me was the receipt of my notice of dismissal. That was the first—I won't say that; I was going up Broadway, I think, about 1 o'clock, and just as I was passing the Post Building they were just putting up a bulletin there, "Hamilton and Phillips removed." That was the first I knew. That was my first actual notice. I had met with my colleagues in a board meeting that very morning. The board adjourned about ten minutes after 12, I think; went into session a little after 10 and adjourned about ten minutes after 12.

Q. Mr. Hamilton, it has been alleged here that you used your official position to coerce certain gentlemen named Canary and Lederer into the payment of money to you, and the mayor has given that as one of the reasons why he removed you? Did you hear the testimony of the mayor? A. I did, sir. It was absolutely false.

Q. In what respect was it false? A. As I remember his testimony, he said I refused to grant a license to Canary & Lederer until they paid a bill due our concern. As a matter of fact, Mr. Moss, that bill was not settled until the 21st or 23d of June, thirty days, almost, after I was out of the police board.

Q. Did you, or did you not, grant a license to them while you were in the board? A. License was granted to them while I was in the board. I mean to say, a license was granted to those people while I was in the board and while the bill was unpaid. I voted for the granting of the license.

By Mr. Hoffman:

Q. Did Canary & Lederer owe this bill? A. Yes, sir.

By Mr. Moss:

We sued them for it; that is, our concern did. It was a bill, I think, for repairing the roof garden, the casino roof garden and through the theatre. Our firm is a building firm. We had done work for Canary & Lederer upon their theatrical building. We claimed they owed us money, and the concern sued them for it. They admitted judgment, I believe; I am not as familiar with that as I would like to be, Mr. Moss, but my counsel, Judge Hedges is here, who conducted that case, and can give you all the information; I paid little attention to it.

Q. The important fact is, as I see it, that you voted for their license while that bill was unpaid? A. Yes, sir.

Q. And while your suit was pending? A. Yes, sir.

Q. And that they confessed, or allowed judgment to be entered, which was not paid until after you had gone out of the board? A. I think they confessed judgment after I was out of the board; I think so; I am not sure.

Q. The mayor also told about a conversation which he had with you regarding your conduct as a police commissioner. Do you remember any conversation with the mayor? A. I do. I was in

the mayor's office; the private office; the little office off of the main office, in the City Hall. The mayor called me up either Friday or Saturday morning, about 9 o'clock, and asked me to meet him at his office at 10 o'clock. I said I would be there, and came down about 10 o'clock. The mayor was engaged in a small private office; I sent word in by the messenger that I was there, and word came back to come in. The mayor left two gentlemen whom he was talking with and came down to the middle of the long table that is there, and he said, "I understand you won't vote for the transfer of any officer in the police department unless Mr. Quigg or Senator Platt says so." I said, "That is not so, Mr. Mayor." "Well," he said, "What did you say?" I said that "when that resolution was introduced asking for the transfer of Captain Herlihy, I refused to vote for it because the commissioners had no power to order any transfers; that was the duty of the chief." He said, "How do you know that?" I said, "The charter says so." He then gave me the charter and asked me to point it out to him. I pointed out the section, but he did not look at it. He then said, "How many of these inspectors are Republicans?" I said, "I do not know." He said, "How many captains are Republicans?" I said, "I do not know." He said, "Aren't 90 per cent of them?" I said, "I don't know. I have been attending to my duties as police commissioner; I do not know the politics of any of the men." I said, "If there are 90 per cent of Republicans there, that is a condition that existed before I went there." He turned to me and said, "That is all I have to say to you." I said, "Good morning." That was all the conversation.

Q. Do you mean to say there was no mention of the name of Senator Platt or Mr. Quigg in that conversation? A. Only himself. By the way, I said, in the second place, I was put there as the representative of the Republican party in a bipartisan board. I said, in the first place, the charter says the chief should make these transfers, and in the second place, Mr. Mayor, it was the first time a resolution of that kind came up, and I wanted to consult with the leaders of my party;" and he said, "Who do you consider the leaders?" I said, "Senator Platt, for one." That was all that was said.

Q. That was all that was said? A. Yes.



By Mr. O'Sullivan:

Q. Do you recollect Mr. McCullagh warning you not to ask for any transfers or promotions in the force? A. I remember him warning me about the transfers, but not promotions.

Q. What gave rise to the occasion for that warning, Mr. Hamilton? A. That was the first few days in the board. There was probably half a dozen requests came to me for transfers, or promotions. I sent for the chief and said, "Chief I know little or nothing about the police business; this is entirely new to me. Requests have come to me for transfers. Now I want to be perfectly honest with you and I want you to be honest with me. When I make a request of you for a transfer, I want you to be honest with me and tell me whether it should be made or not. You have been in the police department longer than I have, and I want you to be frank with me. If I make a request to you for a transfer I want you to tell me whether it ought to be done." Then he said, "Mr. Hamilton, or Commissioner," he called me; he said, "I want to say to you now, I will not make a transfer of a captain or a sergeant for anybody in this city, and," he said, "Don't ask me." And I never asked him. I hardly knew Mr. McCullagh before I went into the police department.

Q. Was Mr. McCullagh a captain or a chief of police when that conversation occurred? A. He was acting chief, I believe.

Q. He was captain, with the rank of captain, he was acting chief; isn't that a fact? A. That I cannot say.

Q. You were on the board of police commissioners at the time? A. Yes, sir. But that was the first two or three days I was there. He was chief in the old city, and the board met immediately the first day and made him acting chief.

Q. You were on the board that promoted him from captain to chief, were you not? A. No, sir.

Q. That was before your day? A. Yes, sir; that was before my day.

Q. Did you consult with the leaders of your party previous to having that conversation with Mr. McCullagh in regard to transfers and promotions? A. No, sir; I did not.

Q. Yet, as I understand your testimony now, Mr. Hamilton, you said to the mayor, you would not take any action as a Repub-

lican police commissioner without consulting the leaders of your party? A. No; I said so far as that resolution was concerned—the first time a resolution of that kind had been brought up. I done so, as far as my action in the board was concerned, because when I went into that board there was no understanding with anybody. I didn't know I was to be a member of that board until Saturday morning at 12 o'clock, when I went in there and was sworn in. Nobody told me I was to be a member of that board; I simply went down and saw my name mentioned in the paper. I had not been notified I was to be a member of the board; I didn't know it.

Q. Then you did not consult with the leaders of your party previous to the conversation with the mayor? A. No, sir.

Q. Why did you think it necessary to state to the mayor that you would have to consult with them first, when you had never consulted them up to that time? A. As I say, it was the first time a resolution of that kind had come up.

Q. And you would take your instructions from the leaders of your party on any matter of that importance? A. On that one particular thing I felt I ought to be advised about it.

Q. When you had that conversation with Mr. McCullagh, you knew you were talking to a regular Republican? A. No, sir; I did not know; I did not know the politics of Mr. McCullagh.

Q. You didn't know his politics? A. No, sir.

Q. Do you know his politics now? A. No, I can't say as I do; I imagine Mr. McCullagh is a Republican; I don't positively know.

Q. In regard to the Casino deal; a dispute in relation to your claim against those people occurred while you were police commissioner, did there not? A. No. It occurred, I should think, five or six months before that.

Q. There was no promise given during your holding the office of police commissioner towards the settlement of that bill? A. No, sir; not to me.

Q. Was it given to any member of the firm? A. Not that I know of.

Q. Don't you know that it was in consideration of a promise given by these people that they got their license renewed, Mr. Hamilton? A. No, sir; I do not. And it was not.

Q. Did it occur without your knowledge? A. It might have; yes, sir.

By Mr. Moss:

Q. I understand your testimony, Mr. Hamilton, to be that the matter which you wanted to consult about with the principal leaders in the party was the principle embodied in the board of police commissioners attempting to pass a resolution controlling the chief of police in a matter which, under the law, belonged to the chief of police. That you desired to consult with your political advisers regarding the policy of the board attempting to coerce the chief of police in matters that belonged legally to him?

A. To the chief of police.

Q. But, as I understand you, with no contemplation to discuss with anybody about Captain Herlihy or any individual? A. No, sir.

Q. But rather of the principle involved in committing the Republican members of the bi-partisan board to an attack upon the legal prerogative of the chief of police? A. Yes, sir.

Q. Was that clearly stated to the mayor? A. I did not state it as clearly as you have stated now, Mr. Moss.

Q. Was it clearly enough stated for him to understand that it was the principle you were interested in and not the individual?

A. I imagine it was; yes, sir. I was not interested in Captain Herlihy; I never saw him but once in my life.

Q. You have given us the whole of the conversation with the mayor? A. Yes, sir.

Q. And you have given us all you know concerning this conversation with the mayor? A. Yes, sir.

By Mr. Hoffman:

Q. Did you make any request or recommendation for any transfer while police commissioner? A. Yes, sir; I did.

Q. How many? A. Probably twenty or twenty-five.

Q. To whom? A. To Chief McCullagh.

Q. Were they complied with? A. Some were, and some were not.

By Mr. Moss:

Q. Were they requests for transfers of sergeants and captains, or of patrolmen? A. No, sir. For instance my——

Q. Wait a moment. Were they restricted to patrolmen? A. Yes, sir.

Q. And, as I understood you, the conversation with McCullagh was, he would not transfer captains or sergeants for anybody?  
A. Yes, sir.

By Mr. O'Sullivan:

Q. What is Captain Herlihy's politics? A. That I don't know.

Q. You don't know now? A. No, sir.

Q. You didn't know he was a good Republican? A. No, sir; I did not. He may have been. There wasn't two captains on the force whose politics I knew.

Q. Still you were able to discuss that ninety per cent of the force were Republicans? A. I did not say that.

JOB E. HEDGES, called as a witness, being duly sworn and examined by Mr. Moss, testified as follows:

I am an attorney and counselor-at-law. I was the counsel of Mr. Hamilton in a suit against Canary & Lederer. The claim was handed me, I think, in October, 1897; the summons and complaint was served on January 18th, 1898. There had been previous interviews with Mr. Lederer in which he agreed to a payment of the claim provided we would take promissory notes in a smaller amount than the face of the claim, which was about ten hundred and odd dollars. That was refused, and after various delays, the suit was brought and the summons was served on the 18th of January, 1898, and judgment was entered on June 21, 1898, in the city court, and satisfied afterwards. The conversations in which one of the defendants agreed to pay the amount at a reduced figure was about two or three days before the 21st of June; that is, to pay in money. There was an offer to pay in notes before that. That offer to pay in notes was in December, 1897. That was before Mr. Hamilton was appointed a police commissioner. The demanding of the indebtedness was before the appointment. I am clear on that.

By Mr. O'Sullivan:

Q. How long was the question in dispute before the claim was put in your hands, Mr. Hedges? A. I think the action was some two years old. My recollection is the bills were in January and June, 1896. Nearly two years.



Q. Had any effort been made to collect it through the machinery of the courts previous to handing to you to collect? A. Not to my knowledge. I received the claim from Mr. John L. Hamilton at his office.

Q. The claim was handed to you in October, of 1897? A. That is my best recollection; in the fall of 1897; early fall.

Q. When was Mr. Hamilton appointed on the police force? A. First day of January, 1898.

Q. And the promise to pay was made in December, 1897; A. Yes, sir.

Q. A short time before his appointment? A. Yes, sir.

By Mr. Hoffman:

Q. Against whom was judgment entered? A. George W. Lederer.

Q. Not against Canary? A. No, sir.

Q. No claim was made against Canary, and Lederer paid Mr. Hamilton? A. No, sir; not to my knowledge.

Q. Then the statement made here that the claim was against Canary & Lederer is not correct? A. Judgment was not entered against them; they were doing business, as I understood, together, but I later ascertained that Mr. Lederer was the party in interest.

Q. This claim was not against Canary & Lederer that you entered judgment for? A. I entered judgment against Mr. Lederer.

By the Chairman:

Q. When the matter came into your hands, your understanding was it was against both of them? A. Yes, sir; the account, as I recollect, was in the name of Canary & Lederer, and after investigation, I brought the suit against Mr. Lederer.

By Mr. O'Sullivan:

Q. What was the amount of that claim? A. The judgment was \$1,072.99.

Q. And that matter was in abeyance for two years before you were asked to collect it? A. It was, sir.

By the Chairman:

Q. That is the only claim that the firm of Hamilton had against either or both of them? A. It was all I know of; no other claim was handed me.

By Mr. Moss:

Q. Mr. Hamilton, had your firm any other claim against Lederer & Canary, or either of them than the one you have testified to? A. We had another claim of \$5,000.

Q. When was the claim of \$5,000 paid; before or after you became commissioner? A. Two or three years before.

Q. This is undoubtedly the matter to which the mayor referred? A. Yes, sir.

JOHN D. HERLIHY, a witness, called, being duly sworn, and examined by Mr. Moss, testified as follows:

Q. Captain Herlihy, were you present yesterday when Chief of Police Devery testified that his first official act was the transferring of you from the Fifth street station to Kingsbridge. Did you hear his testimony? A. No, sir.

Q. He testified that that was his first official act, and that he gave you but two hours and half's notice to get from Fifth street to Kingsbridge. Do you recollect the time you were transferred? A. I was on sick leave at the time.

Q. Then not actually at the station house? A. No, sir.

Q. Where were you when you received the notice? A. Home.

Q. Where is your home? A. One Hundred and Fifth street, 239 West.

Q. What time did you get your notice? A. Six o'clock at night; I can't tell exactly; I was in bed at the time.

Q. A short time before six o'clock? A. Yes, sir.

Q. Was it then necessary for you to go to the station house and get your effects? A. No, sir.

Q. You had to delay that? A. When I reported for duty.

Q. You did get up from your sick bed and report to Kingsbridge at six o'clock that night? A. Oh, no.

Q. What did you do? A. About a week afterwards.

Q. After you were relieved by the surgeon? A. Yes, sir.

Q. The chief assigned as the reason for doing that as his first official act, his conviction that you were incompetent and a bad person to have command of that district. That he had known you as a sergeant under him and that he considered the matter so important that he did that the very first thing. Had you any notice whatever from any chief of police, Mr. Devery or any other chief of police, concerning your incompetency or your being an improper person for commanding that precinct before your transfer?

Mr. O'Sullivan—Isn't that a little complex?

The Chairman—Do you understand the question?

The Witness—Repeat it again, please.

Mr. Moss—I will give you a new question.

Mr. O'Sullivan.—It is only fair to the witness.

Mr. Moss—The witness was perfectly cognizant of the question until we began to talk about it.

Q. Now, Mr. Herlihy, I suppose you are thankful for being helped out. Had you any notice from any chief of police, or acting chief of police, that you were an incompetent person and unfit for that command until you received your notice of transfer? A. No, sir.

Q. As a matter of fact, had you been endeavoring to enforce the law against gambling in that precinct? A. I tried to do the best to enforce all laws.

Q. Did you try to enforce the gambling law? A. All the laws.

Q. Did you endeavor to enforce the gambling law for one law?

A. Yes, sir.

Q. Did you succeed in closing up any gambling places there?

A. I did close an alleged gambling place—poolroom.

Q. What was that? A. Corner Ninth street and Second avenue.

Q. What was the character of the place? A. A regular café; but two or three persons got in there making books.

Q. What was it called? A. Café Manhattan.

Q. You say there were some people there taking bets on horse races? A. That was the rumor.

Q. How did you close it up? A. It took me about a year to suppress it.

Q. How did you do it? A. Kept going there all the time; the best I could, and get evidence if I could.

Q. You suppressed it without actually arresting anybody? A. Without any evidence; yes, sir.

Q. Drove them out by sticking to it? A. Yes, sir.

Q. Did you know that motion had been made in the police board to transfer you from that precinct? A. No, sir.

Q. Do you remember going to Chief McCullagh when there were rumors of your transfer and asking him if you were going to be transferred? A. No, sir.

Q. Did you hear the testimony of Chief McCullagh yesterday? A. No, sir.

Q. Mr. McCullagh testified that there were rumors of your transfer and that you came to him and spoke about them, and he said you had not been transferred and would not be transferred while he was chief of police; do you remember that? A. No, sir.

Q. You don't remember that? A. No, sir.

Q. You are now a police captain on duty, aren't you? A. Yes, sir.

Q. In command of a precinct? A. Yes, sir.

Q. With Chief Devery as your superior officer? A. Yes, sir.

Q. And liable to be transferred at his will, are you not? A. The chief has the power of assigning any officer of the department.

Q. And you have felt his power already haven't you, by being transferred from Fifth street to Kingsbridge? A. I am very much obliged to him because I have better times now.

Q. Have you always said that, captain? A. I know now.

Q. What has caused the change in your mind, captain? A. I haven't got so much responsibility there; I know the difference; I never did before.

Q. You found out since you got there you have less trouble? A. Yes, sir.

Q. That is, you don't have to run up against people interested in alleged gambling houses and alleged houses of ill-fame; you don't have that to contend with? A. There ain't much of it.

Q. And you don't have to contend so much with political people interested in such places, do you? A. Not much; no, sir.

Q. Therefore you found it an easier place? A. Yes, sir.



Q. And you get as much pay? A. Yes, sir.

Q. But isn't there generally among captains a desire to get in to the more important precincts? A. I cannot speak for other captains; so far as myself, I am satisfied wherever I am.

Q. You were not asking to be transferred, were you, when you were down at Fifth street? A. A captain is liable to be transferred at any time.

Q. You were not asking to be transferred; you were perfectly willing to stay, weren't you? A. Yes, sir.

Q. Do you remember Martin Engel coming to the stationhouse and asking you not to interfere with the people at the café Manhattan? A. No, sir.

Q. You don't remember that any more? A. No, sir.

Mr. Moss—There is no use of asking this man any more about the things which he has previously said, for it is evident——

Mr. O'Sullivan—Is that a fair comment, Mr. Chairman?

Mr. Moss—Well, I have made it. Do you wish to ask him any questions?

Mr. O'Sullivan—Yes, a couple of questions.

Q. A good police officer is ready to go wherever he is transferred or wherever his duty calls him? A. Yes, sir.

Q. That is your duty as a police officer? A. Yes, sir.

Q. And it is in the line of your duty to submit to it? A. Yes, sir.

PHILIP COHEN, called as a witness, being duly sworn and examined by Mr. Moss, testified as follows:

I know a poolroom at St. Mark's place, No. 9 St. Mark's place. I have played there frequently, and lost money there. I began to play a number of months back, several months. I can't very well tell how much money altogether I lost there, about two hundred dollars or so. I usually bet small sums, two, three, five dollars and along there. I was not a member of any club there, none whatever; never paid any initiation fee; never signed any constitution; never attended any meetings; never was asked to. I know no officers of any club there. I never heard of any. I was never prevented from going in there to bet. The room there that is used as a poolroom is about twenty-five—well, the room where

the people assemble, the players, about twenty-five by thirty-five; something like that. Quite a large room. A few hundred people, I suppose, were in the habit of gathering there daily in and around and about the place, coming in there and betting. The crowd is constantly changing, some going out and others coming in. There were many people that were in the habit of betting there; familiar faces; I would see them there often, every time I would go there. I never saw any police interference with the room, none that I know of, outside of the time when I made a complaint. And there were people betting in there, making two, three and five dollar plays as I was; some larger and some smaller; about the same thing. There must have been a great deal of money passed in there every day. It was very rare; very seldom that I won. There were other poolrooms that I visited. There was one room not very far from there; about a block away, I believe, on the corner of Ninth street and Third avenue, the Stuyvesant Hotel building. I played there about the same time, but not as late back; probably three months ago. I made my last bets at St. Mark's place the last Saturday in April and the first of May, on Monday, I believe it was. I believe I have been playing the races in that poolroom while this committee has been in session in the city. I heard they were there even last Saturday. Kept up business same as usual. I can't say anything about the poolroom at the Stuyvesant Hotel, now; but about this St. Mark's place I know. I last played at the Stuyvesant Hotel quite a few months back. There was not as many people patronizing that poolroom as St. Mark's place, still quite a number, and passing in and out as I have described.

Q. Did you notice anything peculiar about the way they handled the betting there, as to whether it was fair or unfair? A. That is what caused me to complain against these people. I have been to race tracks and lost money, and I never complained, but here I did. There were peculiar actions in regard to calling off the information that they got from the track. There was many a time I went to make a bet and they told me the race was closed, and wouldn't accept my money. And then it happened to be the horse I wanted to play won. At other times when I made my bet they would take my bet and it was on the losing side. It seemed to me they, getting the information from the track by telegraph, had the advantage of the players, and they would hold it back. When I wanted to bet a horse that actually came in as a winner

I found the bets were closed. I often noticed it that way. I can't tell how the news was received.

Q. Were there telegraph instruments in the place or telephones? A. They had a partition there, and what was going on behind the partition I can't tell. Some one called out the information; a man hollered when they were off and the description of the race and everything. Somebody from inside would call out the race about to be run, the horses that were out, and when they were supposed to start he would say "they are off," and the position. And when they reached the first quarter he would call out their positions at the first quarter, and so on until the race was finished, and while the race was running the people in the room would not have an opportunity to place their bets, not when they were running, just before he said they were off. The odds were announced. Sometimes they would have a card, a paste-board card and have the names of the horses that the jockey was to ride and the figures of what odds were placed against each horse. I have had cards like this in the poolroom (showing card), containing the names of the horses and the places where they were running; they were scattered all around the room so as to give the betters information, and this information would be called out in a loud tone of voice so all in the room could hear, and then when I decided how I would bet upon a horse, I would fill out a slip of paper and hand it in, together with my money. And then, as soon as the race was run and the result declared, if I won, the money would be paid to me out of the same wicket. I made a complaint, that time I made a complaint myself at the Fifth street stationhouse, or Fifteenth precinct, I believe it is. The Fifth street stationhouse. That is the Sixteenth precinct house now; it used to be the Fifteenth. I cannot very well remember to whom I made that complaint, some one at the desk, the sergeant in command. That complaint was made a few months ago. Nothing was done about that complaint that I know of. I told the sergeant I had played and lost money there. I was never called into court to make any complaints. The next complaint, the next time, I didn't go to the stationhouse, but I went to headquarters, to Inspector Cross. I told him my story.

By Mr. Hoffman:

That was the first Saturday in May. That would be a week or two ago; that was when I went to see Inspector Cross. I told him about this poolroom, and he called a captain and Officer Popp

of the Fifth street stationhouse; called them up on the telephone, and they came there and he told them about this poolroom business. I was present. I was there with Inspector Cross. It was Captain Diamond, I think so. And he told the captain about it and asked them to go, with me to the courthouse. The captain appointed Mr. Popp to go with me that day, and this was about 10.30, I believe—around that time—10.30 a. m. Saturday, and Officer Popp went with me over to the Fifty-seventh street court, and when we got there it was all closed.. The judge had gone or something of that kind, and they told us to come again on Monday. Officer Popp told me to be present at 9 o'clock Monday morning at the courthouse. I was there Monday at 9 o'clock sharp with a brother of mine. He had played before, but didn't play on the times I had played at the poolroom and lost money. I had him with me as a witness. So I went with Officer Popp and Officer Popp brought with him—they had another officer whose name was McCarty—and we went to Judge Wentworth, and Judge Wentworth referred us to the clerk alongside of him, and told him to see about our case; and I explained everything to the clerk. The clerk was wasting his time around about an hour before he would hear me first; of course he heard it was against the poolroom. I told him I have not much time here to lose; I am here to state my case. I told the justice what had happened, that I had been playing in that poolroom, and that I got my brother here to corroborate my statement, and he was fooling around and didn't make any attempt to give me a warrant. I told him if he didn't I knew what I would have to do, I would go before the Mazet committee. As soon as I had finished that statement he went to the judge and told him I made that remark—I didn't hear what he told the judge, but he said something, and the judge called me up and said: "Here, if you come here making any such threats, there is the door there," as much as to say, he will put me in a cell for making that remark. The judge said "there is the door," pointing to the outer door, the entrance, because I made that remark of the Mazet committee; and then afterwards he heard my story and he told the clerk, "Well, now, you can make up some sort of warrant there," I think.

Q. What you mean to say about the judge is, that he resented any suggestion by you that you would call him or his clerks before the committee? A. It must have been that way.



Q. And then he told the clerk to proceed and draw a warrant—some kind of a warrant you say? A. Some kind of warrant he said, and the clerk said, “Well, I guess I will make out a warrant to the party you gave your money direct,” and named John Doe on the warrant, and made the warrant out and after we were through we went down stairs, Officers McCarty and Popp with myself and my brother, and when we got to the lower story I asked the officers if they had a right under that warrant to enter the place. Officer McCarty said, “No, we have no right, and you go back and ask the judge.” I said, “Then there is no use of my wasting my time going with you. How can I point the man out if we can’t enter?” He said, “Go up and see the judge and see if you have the right.” Then we went back and Judge Wentworth came out and said the officers know their duty, and there is no use fighting with the officers, and that he left it all with them. When we got down stairs the officers made up we should meet at the stationhouse at 1.30 that day. That was about 12 o’clock, I suppose, and we were to be at the stationhouse at 1.30, and at 1.30 o’clock I was there with my brother ready to go ahead. The officers were there, that is Officer McCarty was there, and Officer Popp wasn’t there just then. We waited awhile and he came in, then we went to this St. Mark’s place poolroom. When we got to the poolroom it seemed that everything took a turn; everything changed, because I saw a different man at the door than usually was there, a different fellow entirely, a man I never have seen there before; and a fellow, Henry Goldsmith, a lawyer, of the place, was there; and the fellow got up as we went in and said, “What do you want here?” He said “This is a club.” I said, “I always come in here; I have been here so often and I never heard of anything of that kind.” Well, sir, the officers made an attempt to go in, but this man at the door claimed the door was locked, and that he had the key, and he wouldn’t permit them to see. Of course the officer went and arrested this man, the man at the door. I had nothing against that man. I said, “I don’t know him and never saw him before.” They wanted me to go to the courthouse and say that I was there personally and that they made an attempt to get in there. Well, when they got to the courthouse, of course this man was discharged. He was there represented by this lawyer Goldsmith that was up there. Gold-

smith, the lawyer, waiting for me when I came, represented the defendant in the court.

Q. Did it occur to you that in the delay that these officers occasioned in the morning and later meeting and so forth, that there was time to go and get Mr. Goldsmith? A. I cannot very well state, but he was there, and I never saw him there before, although he said he was employed there. At the court they told the judge it was a club, and he was a member, and so forth. I certainly didn't know it was a club, and I had been there very often.

Q. There was absolutely no evidence against the man these officers arrested, was there? A. They claimed he prevented them from going inside. They never did arrest the man that was mentioned in the warrant on my complaint. I have never been called to court on account of that man. Neither I nor my brother have ever been called to court against anybody with whom I had any dealings at that poolroom. When we got to the court, when they had arrested this man, the judge asked him, whether they had made an attempt to enter, and the officers answered that they had made an attempt and this man standing at the door had the key and had the place locked. The judge asked if he told them he had a warrant and the officers replied they did not tell the man they had a warrant, so that he was justified in preventing them from going upstairs.

By Mr. Hoffman:

Q. What attempt was made to get in? A. Just asked him if we could go in and he said the door was locked and he turned the knob and the door happened to be that way, and that was all.

By Mr. Moss:

Q. I have been trying to find the address of your sister, Mr. Cohen. What is her address? A. I cannot very well give the number.

Q. Can't you give me that number? A. I may find it later on.

Q. I know, but you promised to find and tell me before. I realize this is not very comfortable work for you and for your people, but I understand—is it your sister or sister-in-law? A. Sister-in-law.

Q. I understand your sister-in-law had a conversation with one of these policemen about that poolroom? A. Yes, sir.

Q. Did she? A. I believe so.

Q. Were you present? A. I was not present.

Q. As you understand that conversation, it had reference to the poolroom? A. Yes, sir.

Q. And to the return of the money you had lost? A. Yes, sir.

Q. That was an officer? A. Yes, sir. She came from the stationhouse to make a complaint, and some officer followed her and stopped her on the way, and asked her not to be so hasty. She had made the remark, she was going to headquarters. This officer said, don't be so hasty, we will settle the matter in the evening.

By Mr. Moss:

Q. I do not care to have you detail that hearsay conversation, and I agree it should not be taken as direct evidence, but I want to get the address of your sister, and want her here as a witness on that particular matter, and you will be kind enough to send her address to me, and allow her to be subpoenaed here.

By the Chairman:

Q. What street does she live on? A. One Hundred and Sixth street.

Mr. Moss—He will get it for me, I am very sure.

By Mr. Hoffman:

Q. Did all these proceedings you have told about here occur before Judge Wentworth or did they come before some other justice? A. This last complaint was before Wentworth.

Q. All that you have detailed was before him? A. Yes, sir.

By Mr. Moss:

Q. Do I understand you were before any other magistrates at any other time? A. I was there at one time.

Q. When was that; lets have it all? A. The time I made a complaint against the Stuyvesant, I don't remember; I believe it was the Stuyvesant; I was before Judge Kudlich. I told him

about the poolroom, and he said I must get somebody to corroborate my statement, otherwise he could not issue a warrant. In the case when I went before Inspector Cross and had Officers Popp and McCarty, I had my brother's corroboration.

By Mr. O'Sullivan:

Q. What is you business? A. Clothing manufacturing.

Q. What portion of the day do you give to your regular business? A. Well, I couldn't exactly state. From 7 until about 6.

Q. And you earn remunerative wages? A. Its according. Sometimes more and other times less.

Q. But a matter of \$200 that you lost in gambling would not affect you seriously, would it? A. No, sir.

Q. So that you may get remunerative wages? A. Well, quite enough to be able to afford a little aside.

Q. Do you intend to discontinue gambling? Is it your intention not to gamble in the future? A. Well, I don't say—I have been to the races quite often, for a little amusement, a little past-time, but not to say that I am a gambler. No, sir; I have my business to attend to.

Q. Did you ever gamble on the races? A. Everybody that goes to the race track has, I believe.

Mr. O'Sullivan—I am speaking of yourself.

The Witness—If you call it that way.

Q. You have gambled for a number years, have you not? A. No, sir; I have not gambled.

Q. You have bet on the races? A. Well, that is a different thing. I don't call that gambling.

Q. You do not call that gambling? A. No, sir.

Q. You have bet on races for a number of years? A. Well, for a few years. Yes, sir; I have been to the races.

Q. When did you make this complaint before Judge Kudlich? A. That must have been a few months back; I couldn't state the exact time.

Q. About two months ago? A. Oh, I believe it was more than that.

Q. A year ago? A. No; I don't think it was a year. I don't think it was that long.



Q. Was the object of your complaint to shut up this poolroom that you complained of? A. To shut up all poolrooms, I would like to see.

Q. So that you could not be permitted to bet on the races? A. So that if I wanted to bet on the races I would go direct to the track, and not have people impose on me.

Q. It was not the immorality of betting that you objected to. You do not regard it as immoral to bet on races? A. No, sir.

Q. Did Judge Kudlich do anything in consequence of your complaint? A. He said if I could bring witnesses to corroborate my statement, that he would issue a warrant; yes, sir.

Q. In the more recent matter that you brought before Judge Wentworth, what did he omit to do in trying to arrest the persons that you complained of? A. Well, I couldn't very well state that. I don't understand what way you mean.

Q. Effort was made to arrest the people that you complained of? An officer with a warrant was sent there, was he not? A. To arrest one man; but not to close up the poolroom. Not to arrest all connected with it.

Q. As I understand it, when you went there the poolroom was closed up? A. It was not closed up. They had the doors locked.

Q. What were you seeking to close up, then? A. That is, nobody was going in; but I saw people going in and out.

Q. How is it you were not able to go in or out? A. Because they saw the officers along with me. They wouldn't admit us.

Q. Have you ever been in there since? A. I have not been in there, but I know that a number of people have been in there.

Q. How did you happen to go there first? Who introduced you? A. Nobody introduced me there. I passed and saw a number of people going in and out, and I heard one of them talking about the races, and I asked what was going on, and he said a poolroom. That is how I went in. I walked right in.

Q. Do you know whether or not there is a telegraphic connection between the place you mention now, kept as a clubroom, or poolroom, or whatever you call it, and the race track? A. That I couldn't tell.

By Mr. Boland:

Q. What was your object in going there? A. Well, I was interested in the running and take the fastest horse?

Q. You expected to win? A. Certainly, I thought I might win.

Q. If you won would you—— A. I don't know. I have always said that these poolrooms are the worst places for a man to go to. If a man wanted to go to the races, he has a right to.

By Mr. Moss:

Q. Are you getting wages, or are you in business for yourself? A. I am in business for myself.

Q. As a clothing manufacturer? A. Yes, sir.

HANS J. WIDNESS, called as a witness, being duly sworn, testified as follows:

Examined by Mr. Moss:

I have been in business in the city of New York and Brooklyn for some years. For some months back I have been betting on horse races in poolrooms, about five months. I live now at 109 Grand street, Brooklyn. There are no poolrooms in my neighborhood in Brooklyn, not to my knowledge. I could not say that there are any that are alleged to be poolrooms. I couldn't tell the number of poolrooms in the city of New York in which I have bet on the horseraces in the last five or six months up in the Bowery and Third avenue, probably five or six, I can't remember exactly. I don't know whether there was one at 92 Houston street, over a saloon; I can't remember the number. It was around Houston somewhere.

Q. Was there one at 61 Bond street, over a saloon? A. I can't remember any numbers.

Q. Was there one in Bond street? A. I can't remember exactly whether it was—it was along the Bowery. I can't remember exactly where.

Q. Was there one at 201 East Ninth street? A. There was—I think there was one on Ninth. I don't remember the number.

Q. Was there one at No. 133 East Thirteenth street? A. I could not recall the numbers. It is the one in Thirteenth street, I think, near Broadway.

Q. That was No. 58, was it not? A. I don't remember the numbers.

Q. There was one near Broadway, was there not, one near Third avenue on Thirteenth street? A. I know there was a couple in Thirteenth. I can't remember the number.

Q. Was there not one on West Thirty-fourth street over an express office? A. Yes, sir; I think there was one on Thirty-fourth near Broadway somewhere.

Q. No. 109? Do you remember the number? A. I don't remember the number, no. It is so long ago I can't remember.

Q. Was there one at 699 Sixth avenue, over Wakeley's saloon? A. There was two or three on Sixth avenue. I can't remember the numbers.

Q. Do you remember one over Wakeley's saloon, at Forty-second street? A. I don't know the names of the places up there.

Q. There was one at the corner of Forty-second street and Sixth avenue, was there not? A. Forty-first or Forty-second; I am not sure. It was up right near the park there.

Q. Was there not one on Broadway right around the corner from Thirty-fourth street, between Thirty-fourth and Thirty-fifth streets? A. Yes, I think there was. I think I was in one there, but I can't remember any number. It was near Thirty-fourth street. I was not a member of any club in any of these places. At a couple of places I think I saw a sort of a charter on the wall. I did not know of any club meetings or of any club officers, and I obtained admission, not being a member of any club.

Q. How much money did you lose altogether in those poolrooms during the five or six months? A. I would rather be excused from answering that question. It might incriminate me. I have a case going on in court.

Q. But you have already testified in that case, and I do not suppose that you are going to be incriminated. There is a resolution here which we have not said very much about. There is a resolution by the Assembly that nobody shall be prosecuted on account of the testimony that he gives here, provided it is truthful testimony. You cannot be incriminated by any confession that you make here, so I ask you now, how much money did you lose in those poolrooms? A. Between four and five thousand dollars, in those poolrooms, in the last five or six months. I never observed any police interference with those rooms while I was betting. They were perfectly easy for me to get into; no trouble.

Q. How did you commence to go? What led you to it? A. I have been playing horses for years, off and on.

Q. Was your playing horses in any way special or peculiar this last five or six months? Had you lost any money before that, playing the races in poolrooms? A. No, I just about evened up before. I have been playing five or six years. Prior to this five or six months I used to play down in Park Row. I could not remember the number. It is on the left hand going up towards City Hall. I have not played at De Lacey's. I don't know whether those other places were in existence when I was playing on Park Row. I did not know of them. I don't know whether these places that I have mentioned are new places. I got to them; the first place, I went down in the Bowery; I followed the crowd; people coming in and out all the time. If you were looking for a poolroom you could find it. If a man knew the signs he could tell. I knew about the other places through an acquaintance in the poolroom. He took me around the other places; showed me where the other places were; another man that was playing. There were many people patronizing these different rooms I have mentioned. There were other people playing money to the extent that I was; they placed large bets. I did not hear the names of any persons as proprietors of these poolrooms.

By Mr. O'Sullivan:

I have been gambling for five or six years, off and on. My regular business is in shoes. I am a shoe man; I sell shoes. I am not in business now. I am working. I failed. I cannot give you any more definite answer to the amount of money I lost than that it was between four and five thousand dollars. That is as near as I can get to it. I have been used to betting large sums of money on races, quite large, for a number of years. I did not give Mr. Moss the list of gambling houses that he read off to me; I don't know who done it.

Q. Do you know whether or not the list that he read off—whether there are gambling houses there or not? A. I know I was near the places. I can't recall any numbers.

Q. Do you wish to be understood as having gambled in each one of the different places that were mentioned? A. I played the horses in five or six of these places. I couldn't say whether it was these numbers or not that was read off. I could not tell



whether these were the right numbers, because I didn't—I don't remember any number.

Q. Some of the places that were mentioned here you gambled in along in 1895 and 1896 and 1894, even? A. No, sir.

The Chairman—No, he did not say 1894.

The Witness—No, sir.

Mr. O'Sullivan—He said five or six years.

The Chairman—He said before that that he had frequented a place in Park Row. Recently he had been taking up with these places.

Q. As a consequence of your loosing, I understand you failed in business? A. Yes, sir.

Q. And you complained of these places because you lost? A. No, sir; I have not complained.

Q. Did you ever complain of these places while you were winning and coming out even, as you have just described? A. I have never complained of any of them.

Mr. Moss—It is only fair to the witness to say that I found out his condition by knowing of his case in bankruptcy. He did not know that he was to be called at all, or to be subpoenaed. He has not made any complaint whatever.

HENRY J. GOLDSMITH, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am a lawyer. My office is at 62 Essex street. I am also somewhat connected with politics in that district and I hold some relation to the leader of my organization in that district. I am one of the secretaries of the organization. I am not related to Mr. Engle or to Mr. Hocksteim or to Mr. Smith.

Q. You simply hold an official relation to them? A. I am their legal adviser.

Q. Legal adviser to the organization? A. To some of the members. I am one of the commissioners recently appointed to ap-

praise values on street openings. I was on the list that was recently appointed by Judge Gildersleeve. I did not know that I was going to be appointed. I could not say that I suspected that I was going to be appointed. It came as a surprise. I don't know Judge Gildersleeve. I do not know how my name came before him. I do not know who selected me. I do not know the corporation counsel personally. The street I am to open, I believe, is One Hundred and Eighty-first street. I have had no previous experience in opening streets. I am not acquainted with any of the property owners on One Hundred and Eighty-first street. It was not at their suggestion that I was appointed, so far as I know, and up to date it is a mystery how my name got on that list. I suppose I owe the honor to the leader of my district; that is it, Mr. Engle, he is looking out for my welfare all the time, and anything he can do for me, he does. It was probably at his suggestion I was appointed. I don't know whether that is so or not. It would be a natural sequence for the labors that I have done for the organization; for the favors that I have done to the organization, for the devotion I have given him, and for the help I have given to the members of the organization in my district for years. I have had no other appointments of that kind. I have been appointed referee once before; Judge Truax appointed me; I was looking for it; I asked him to appoint me; I know him; I have known Judge Truax since I have been admitted to the bar, over nine years; so that in that case I had the benefit of a personal acquaintance. The judge knew who he was appointing.

Q. I want to ask you how you happened to be standing in front of the door of the poolroom at 9 St. Mark's place, on the day that the officers were there with Mr. Cohen? A. With whom?

Q. With Mr. Cohen. A. I don't know Mr. Cohen.

Q. But you defended a case where Mr. Cohen made an accusation against somebody at 9 St. Mark's place, did you not? A. No, I did not.

Q. You appeared in court did you not? A. I appeared in court where a man was arrested charged with disorderly conduct, occurring at 9 St. Mark's place.

Q. And you were standing there at 9 St. Mark's place, at the time of his appearance, were you not? A. Yes, sir.

Q. You saw his arrest? A. Yes, sir; I happened to be there.

Q. How did you happen to be there in front of the poolroom?

A. I don't know that it is a poolroom.

Q. You do not know that? But you know that it is a club-room? A. I do.

Q. How do you know that? A. Because I am a member of it.

Q. Oh, you are a member of that club? Did Judge Gildersleeve know that? A. You will have to ask Judge Gildersleeve, I am afraid.

Q. What kind of a club is it? A. The '99 social club.

Q. Do you know what that club does there in the hours of the day—during daylight? A. No.

Q. You do not know? A. No.

Q. Have you ever attended there during the day time? A. Very rarely.

Q. How did you happen to be there at mid-day on that particular occasion? A. I happened to be coming through Eighth street. I was at the Café Boulevard for my dinner.

Q. And it just happened that you were there? A. Yes, sir.

Q. You, a member of a club, happened to be there in the nick of time when the officers were going there to arrest another member of the club? A. I didn't know they were coming there.

Q. But you happened to be there? A. I happened to be there.

By the Chairman:

Q. Where is your office? A. Sixty-two Essex street, near Grand street.

Q. Do you go up there to get your lunch? A. Yes, sir; I live in Harlem.

Q. Where? A. I live in Madison avenue, corner of Eighty-first street.

Q. You do not live in this district? A. I have not for over a year.

By Mr. Moss:

Q. Do you know that they play bets on horses at horseraces at 9 St. Mark's place? A. No; I do not.

Q. You do not know that? A. Not of my own knowledge; I never heard it.

Q. Does the club have anything to do with placing bets on horseraces? A. No.

Q. And you do not know whether that is done in the rooms of that club during the day, do you? A. No; I don't know that to be the fact.

Q. You have heard it, have you? A. I saw it in the newspapers.

Q. Have you, as a club member, and a reputable member of the bar and a recipient of judicial favors, done anything as a member of the club to find out whether the club to which you belong, is engaged in violating the law or permitting the law to be violated in its rooms? A. I don't know that the law is being violated there.

Q. Have you done anything to find out? A. No, sir.

Q. Did you not get very distinct statements as to that when you were present at the police court on Mr. Cohen's complaint? A. There was no examination.

Q. I know; but you know what Cohen said, do you not? A. I did not. Cohen was not sworn as a witness.

Q. Then it is possible that you, a bright lawyer, went up to the court house there with Mr. Cohen and those police officers, and did not know that Cohen charged there was a poolroom there? You knew he charged that? A. No; I did not.

Q. You never heard that until this morning? A. No; I did not.

Q. Never heard of that until this morning? You did not even see it printed in the Sun, did you, together with your name? Did you read that article? A. No; I did not. Somebody told me about it.

Q. Did you investigate what somebody told you? A. No; I did not.

Q. Why not? A. I did not think it was of so much importance.

Q. Then you do not care what is going on in the rooms of the club during the day, do you? A. It is immaterial to me.

Q. And that you say, as a reputable member of the bar, and a member of that club, and a man who claims the honors and the favors of the judiciary? Is that so? A. Yes, sir.



JOHN R. WOOD, being duly sworn, testified as follows:

Examined by Mr. Moss:

I have been working for a short time under your direction, and have been visiting poolrooms and gambling places in this city. I happened to be sitting this morning alongside of, or near to, Chief Devery. I heard a conversation by Chief Devery with somebody concerning the witness. I don't know whether it was Philip Cohen, or not. The witness that was here on the stand, the witness who said that he visited poolrooms.

Q. Will you please to state what that conversation was? A. He said that you were a Jew and you selected nothing but Jews to squeal.

Mr. Moss—I am not particularly interested in that part, although, if it is a part of the conversation, all right.

The Witness—A man that was with him also said that he would not take \$20,000 to be in that man's place. The witnesses place Mr. Devery said. He wanted to know—he said to his friend there. "English, look up that man's record, and see if he has ever been arrested."

Mr. Moss—I wanted the chief to get near enough to hear that witness, and it is evident that he did.

The Witness—There are poolrooms in the city of New York lots of them; I had no experience in visiting poolrooms and getting evidence prior to the time you asked me to begin. I started in as a green man, but I have had some experience as a detective. But I started in as a green man on the poolrooms; on that line, yes, sir. You did not hand me a copy of the "Times" at one time and ask me to notice that list. You gave me a list, though.

Q. About how many poolrooms in the city have you been able to get into and get evidence about, since the 7th day of April, when you began? A. I think about 125. That is in the borough of Manhattan. I have found these poolrooms openly running, and large numbers of people frequenting them; large numbers of persons betting; I have not on any of my visits to these poolrooms found a single instance where there was police interference with them; not one; I have, under your direction, placed money upon

horses in those rooms; sometimes I lost it, and sometimes I won money, and the money that I have won I have turned over to you as evidence, and it is here now in court. These reports are not in my handwriting, they are in typewriting; but they are a correct copy of my handwriting; they are direct copies of my handwriting. I read them over and turned them over to you personally. I bet at No. 2 New Chambers street, on the 7th of April; I found there a poolroom; the place was pretty well crowded. I don't know how many were present; I made a bet; I bet on a horse; I bet on Jennie Reed, to come third, and won \$3. This is the \$3 that I won, the identical bills. I took the numbers of them and attached them to the report. There were other people betting at the same time. The report states the time. (After reading.) About 5.10 p. m. On the same day I entered the premises No. 286 Bowery, called the Capitol saloon. I found a poolroom there; quite a large one. The place was full; full of people. It was 5.55 p. m. I placed a bet and won money. I bet—I made a bet on Rachel C. to run second place and won \$2. This is the identical money that I won, attached to my report, two \$1 bills. On the 8th day of April I entered the premises No. 80 Sixth avenue. I found a poolroom there; I found other persons present, large numbers of them, betting on horse races. I made a bet. I bet—I placed a bet of \$1 on Bishop Reed for third place and won \$4. I got a \$5 bill in return, and I turned it in as evidence. Four and one make five. This is the \$5 bill that I received in the poolroom.

By the Chairman:

Q. This place is on the street floor or upstairs? A. I believe it is upstairs. The. Allen's. It is upstairs.

Q. One flight up? A. It is in the report.

Mr. Moss—The. Allen's is said to be the hardest place in New York. At least, the police say it is. Mr. Wood seems to have got into it.

The Chairman—I want to know how he got in.

The Witness—You just go up one flight. I will read the report. I don't remember. It is about five weeks ago, or a month ago.

By Mr. Moss:

Q. Will you look and see? A. At the door, a young man about nineteen years of age, smooth face, light hair, about five feet six inches in height, and weighs about 125 pounds. We went up two short flights of stairs, and then The. Allen asked Mr. Cramer and myself, and wanted to know on my word of honor as a man if I was all right, and I replied, "Certainly, I am." And he said, "All right. Pass on. This is a gambling house."

By the Chairman:

Q. How did you come to go to this place? Was this on the list that was given to you? A. Yes, sir.

By Mr. Moss:

Q. I wish to ask you generally as applying to all these cases, did you go alone, or did you go in company with other persons, furnished by me? A. Always witnesses furnished by you.

Q. So that in each of these cases there is not only your testimony but the testimony of several persons, generally to each case? A. That is correct. Some of these places have been visited at other times by other men acting under your direction. I know that on the same day, April 8th, I visited the premises 480 Eighth avenue, and found a poolroom. That was a saloon—in the back; in the rear of the saloon. In all of these places you are to understand that the information of the races was called out and the odds announced, and the bets taken on the spot, cards on the wall, and the payments made at the close of the race, if they won, about fifteen or twenty minutes afterwards, when they get the O. K., as they call it. That is the general rule throughout all these poolrooms. Open betting. I played in that poolroom. I put a bet of \$1 on Vanity Fair and Bonnie Nell, two horses of one stable, in the third race, for second place, on the Benning's track, and lost my money. On the same day, April 8th, I visited the premises known as James Wakeley's saloon, Sixth avenue and Forty-second street, I found a poolroom over that saloon. There wasn't very many people there. It is quite a swell poolroom, as they call it. At about 4.40 p. m. I passed the side door near the saloon and another door upstairs. I remember there was not many persons. I made a bet there. I bet \$2 to \$4 on a horse, the fourth race, and won \$4. This is the \$4 that I won. That

makes five places in two days. I found a poolroom at 54 West Twenty-ninth street on the 10th day of April; arrived about 5.20 p. m. A colored man refused to let us in, saying he had orders not to let any new faces in the place. That was run by Frank Farrell. That day I did not get in. On the same day, April 10th, I went to the premises No. 72 West Thirty-sixth street, and I there found a poolroom. I bet there. I put a bet up, \$2 to \$4 on John Boone, in the fifth race at Newport, to run third, and lost. There were other persons in the room betting. There was no case where I had the room all to myself. In all these cases there were many other persons present, doing the same thing as I was doing, betting. I on the same day, April 10th, entered the premises 109 West Thirty-fourth street, and there found a poolroom. I placed a bet on Florida Rose, at \$2 to \$2, to run first on the Memphis track, and lost. I on the same day entered the premises 1325 Broadway, and there found a poolroom. I placed a bet on Miss Lynch, in the sixth race at the Memphis track. I bet \$2 to \$4, to come in third and lost. I was not a member of any clubs in any of those places. I was not asked to be. I did not find any club meeting anywhere. I did not find any club officers in charge of anything, so far as I could determine; not that I know of. I simply went in and bet and went out. I on the next day, April 11th, entered the premises No. 20 Dey street. I there found a poolroom. I placed a bet on Columbus to run third, at one to one, in the third Memphis race, and lost. I on the same day entered a poolroom on the northeast corner of One Hundred and Twenty-fifth street and Third avenue, No. 2305 Third avenue. I there found a poolroom, a large one. I placed a bet on Bishop Reed to run second at Benning's, at three to one, and lost. On the same day I entered the premises 100 East One Hundred and Twenty-fifth street. I there found a poolroom. yes, sir. I placed a bet on Dr. Ridley in the fourth race at Memphis, to run third, at one and a half to one, and lost. That is called the Sparta club. I believe it is over a saloon. I don't remember whose saloon. I on the same day entered the premises on the southeast corner of Seventh avenue and One Hundred and Twenty-fifth street, and there found a poolroom. I placed a bet on Trumby in the sixth race at Memphis to run second, at one to one, and lost.

Mr. Moss—These three poolrooms on One Hundred and Twenty-fifth street were mentioned in the testimony of Inspector Kane and Captains Sheehan and Haughey, dividing them between



them. I think you will remember the ignorance that those officers professed as to the existence of poolrooms in those particular places.

The Witness—I entered the poolroom at 1325 Broadway on the 12th of April. I did not bet that day, but I saw others betting. On the same day, April 12th, I entered the premises at the northwest corner of Sixth avenue and Fortieth street, and there found a poolroom. I placed a bet on Prince Geno in the third race at Newport, to run third, at one to one, and won \$1. I won \$1 at this place.

Mr. Moss—Stephans testified that he had been put to work at this poolroom, Fortieth street and Sixth avenue, in connection with the plan to have him testify against Simon Buttner.

The Witness—I on the same day, April 12th, entered the premises 685 Sixth avenue, and there found a poolroom. I placed a bet on Fenton, in the fourth race at Newport, to run third, at two to seven, and lost. I on the same day, April 12th, visited the premises 54 West Twenty-ninth street, Frank Farrell's, and found there a poolroom, and made a bet. I placed a bet on Meddler, in the sixth race at Memphis, at two to two, and won. These are the \$2 I won in Frank Farrell's poolroom. I had no trouble in getting in that day; not that day. I on the 14th of April, visited the premises 156 East Twenty-third street, and found a poolroom there and made a bet. I placed a bet on El Sevant, in the third Newport race, to run third, at two to one, and won \$2. This is the \$2. I on the same day, April 14th, entered the premises 1108 Third avenue. I found a poolroom there. I placed a bet on Savarin, the same horse, in the fifth race at Memphis, to run third at one to one, and lost. They gave me that ticket when I placed the money. Instead of writing out a ticket and telling the horse you bet on, you simply say, "I bet on such and such a horse, 79." This ticket is entitled "Winona Club, Member's Ticket." Then in this case this was not a badge of membership, but a sort of voucher that I had bet, so that when I came to get my money I might be identified by that ticket. I notice the name on this ticket "Thomas F. Egan, printer." I believe that printing house is on East Forty-second street. It is reputed to be the headquarters of some—Mahoney's quarters,

they call it; and by common reputation Mahoney has a poolroom headquarters at that place. I noticed a large number of wires running over the roof of the building. I have never tried to get into it. On the 15th day of April I entered the rooms No. 9 St. Mark's place, about which testimony has been given this morning. I found a poolroom there, a very large one. There were many people present; it is always crowded. I placed a bet on El Carney, in the first Memphis race, to run third, at four to one, and lost. I on the same day, the 15th of April, entered the rooms 58 East Thirteenth street. I there found a poolroom and made a bet. I placed a bet on Can Gallop, in the third race at Newport, to run third, at five to five, and lost. I on the same day, April 15th, visited the rooms 114 and 116 East Thirteenth street. I there found a poolroom. I placed a bet on Sister Stella, in the fourth race, Bennings track, to run third, at three to two and a half, and won \$3.50. This is the identical money. I on the same day visited the premises 206 East Thirty-fourth street, and there found a poolroom and made a bet. I placed a bet on Charter O., in the fifth Newport race, to run third, at two and a half to one, and lost. I received this ticket in the same way as the other one. And wherever a ticket is attached to the report that is the meaning of the ticket. This specifies the United Friendship club, 206 East Thirty-fourth street. I on the 18th day of April visited the poolroom at 118 Nassau street. I placed a bet on Davin, at two and a half to one, to run third, in the first Newport race, and lost. That is Paddy Divver's room. I on the same day, April 18th, visited the poolroom at No. 33 Park Row, DeLacey's poolroom. I placed a bet on Hopscotch, at two to one, to run third, at the Aqueduct race, and lost. I lost my money on Hopscotch. I on the same day, April 18th, visited O'Keefe's poolroom, 80 Park Row. I bet there. I placed a bet on Inspector, at one to one, to run third, in the first Memphis race, and lost. On the same day, April 18th, I visited the poolroom at 12 Centre street. I placed a bet on Harry Nutter, to run third in the second Memphis race, at five to one, and lost. On the 19th of April I visited the poolroom at No. 328 Bowery. I placed a bet on Kickener, to run third, at one to one, and the horse came in second and I lost. While I was operating in these poolrooms primarily I ran across a few gambling houses, and I

took them in as I was going along in the evenings. I on the 19th day of April visited the poolroom at No. 938 Eighth avenue. I placed a bet on Cris Cringle, in the fourth Newport race, to run at one and a half to one and a half, and won a dollar and a half. That is the money. All these bets were placed in the afternoon, between 2 and 7 o'clock. Cris Cringle was lame. I believe there is a card inside of that. The card attached to this says, "Hancock Club." I visited, on the 20th day of April, the poolroom at 112 Centre street. I placed a bet on Box, at two to one, to run third in the first Aqueduct race, and won \$2. This is the money. There is a ticket attached to it, "Nonpareil Club." I found by reputation in that poolroom who was its runner or backer—Dry Dollar Sullivan. I won on that. On the 20th of April I visited the poolroom at 111 West Twenty-third street. I bet and won. I placed a bet on——

By Mr. Hoffman:

Q. In reference to the last statement you made, that Dry Dollar Sullivan was interested in that place, did somebody give you that information? A. Yes, sir.

Q. You are not talking of your own knowledge?

Mr. Moss—I asked him in that way. I asked him if he learned by reputation in the room who was the backer, and he said Dry Dollar Sullivan.

Mr. Hoffman—That is absolutely no evidence.

Mr. Moss—I think if a room was run in New York and by common reputation in that room it was said to be run by any individual here, we would find out about it.

The Witness—I placed a bet on Carline to run third in the third Aqueduct race, one to one, and won \$1. This is the money. On the 20th of April I visited the poolroom at 116 University place. I placed a bet on Ruby Sips in the first Aqueduct, and lost \$1. On the 20th of April I visited the poolroom at 133 East Thirteenth street. I placed a bet on Rilarina, to run second in the sixth race at Aqueduct track, and lost. There is a ticket attached to that, "The Exchange Bowling Club." It was a bowling alley, or a dance hall once, I believe, but it is not so now. On

the 21st of April I visited the poolroom at 201 West Forty-first street. I placed a bet on Oxnard in the third Aqueduct race, five to one, and lost. On the 21st day of April I visited the poolroom at 416 Eighth avenue. I placed a bet on Tyrian, to run third in the fourth Aqueduct race, two to one, and lost. We left this room and entered a smaller one. I bought a dollar's worth of chips and lost. I found a gambling annex to this poolroom.

Q. What kind of gambling was going on? A. Red and black. I bought some chips. Seventy-five cents, I won. They were taking anything that came along there; run on the same floor, but separate rooms. On the 21st of April I visited the poolroom at No. 62 Vesey street. I placed a bet on Alix, in the fifth race at the Aqueduct, to run second, at two to one, and lost.

Q. Did you find a police wardman in that place—Wardman Nugent? A. He was pointed out to me as such.

The Chairman—Where was that?

Mr. Moss—At No. 62 Vesey street.

The Chairman—Was he in there at the time?

The Witness—Yes, sir; he was pointed out to me as that person.

Q. You would know him if you saw him? A. I would know him if I saw him again, yes, sir.

By Mr. Hoffman:

Q. But you do not know whether that person that was pointed out was the one? A. I don't know that it was his name, but I know he was connected with the police force. He has been pointed out to me several times as being connected with the police force.

By Mr. Moss:

Q. You had somebody else follow him and check him and identify him? A. Yes, sir.

Q. As the man you mentioned? A. Yes, sir. I on the 21st of April visited the poolroom at 100 Vesey street. I placed a bet on Oneck, to run third in the fifth Newport race and won a \$2



bet. This is the money. On the 22d of April I visited the poolroom at No. 315 Canal street, I placed a bet on Bishop Reed to run third in the third Aqueduct race, at one to one, and lost. On the 22d of April I visited the poolroom at No. 15 Tenth avenue, I placed a bet on School Girl, at two to one, to run third in the third Newport race, and lost. On the 22d of April I visited the poolroom at 2848 Eighth avenue, I bet on Eddie Russell and lost. The ticket attached to this is called "The Commercial Clerks' Club." On the 24th of April I visited the poolroom at 89 to 93 Grand street. I there placed a bet on Swamp Angel and won \$1. This is the money. On the 24th day of April I visited the poolroom at No. 293 Bowery, called the Germania Hall. I put a bet on Harry Reed, to run one, two, at one to one, in the first Aqueduct race, and won \$1. This is the money and also the card. The ticket attached to it is "The Ainotal Club." This was a very large poolroom. There were not many persons present; not according to the size of the room—it would hold 500 people—say about 250 men there. There is a doorkeeper at all of them, but there is no trouble to get in. On the 24th day of April I visited the poolroom 620 Grand street, I bet on Double Duming and lost—"Double Dummy." There is a "g" there, but it ought to be Double Dummy. I on the 25th day of April visited the poolroom at 27 Thames street, an office building; I placed a bet on Big Gun, to run second, at two to two, in the fifth Aqueduct race, and lost. I on the 25th day of April visited the poolroom at 118 Wall street, placed a bet on Rubel, to run third, at one to one, in the first Newport race, and lost. I on the 25th day of April visited the poolroom at 3-5 Battery place. I placed a bet on Bearatarie, to run third, in the fourth Aqueduct race, at two to one, and lost. I on the 26th day of April visited the poolroom at 207 Greenwich street, and placed a bet on Tackanassie and won \$2. I on the 26th day of April visited the poolroom at 193 Washington street. I put a bet on Dr. Graves and won \$1, and this is the one. I on the 26th day of April visited the poolroom in the office building No. 55 Broadway. I placed a bet on Maharaja and won \$2, and this is the money. I on the 27th day of April visited the poolroom at 444 Broome street. I placed a bet on Beebe and lost. I on the 27th day of April visited the poolroom at 1643 Third avenue. I bet on Dieudonne and lost, I bet \$2; no, \$1 and lost. It was two to one, and I lost. The name on this card is "The Home Made Chowder Club." I on the 28th day of April entered the poolroom at 6 Front street. I bet \$1 and lost. On the 28th day of April

I entered the poolroom at 48 Broad street, and there bet on Miss Stanton, two to two, and lost. On the 28th day of April I entered the poolroom at 160 South street and bet on Primate, one to two, and won \$1, which is here. On the 29th day of April I visited the poolroom at No. 426 Columbus avenue, the Golden Swan. I placed a bet on the stable for Leo Planter and For-get-me-not—no. For-get-not—two horses to run, on the stable. I bet on the stable. I lost. I learned that John Down and J. Lingham run the place, and William Sexton had spent most of his—lots of his time there, I learned from information. I did not see that. There was a club close to this poolroom, some Democratic club. It is not in the same building, two doors from it. It is across the way; two doors away. I entered the poolroom at No. 466 Boulevard on the 29th day of April, and bet on Sister Fox and lost. On the 29th day of April I entered the poolroom at 56 New street. I placed a bet on Knight of the Garter, to run third, at one to one, in the third Aqueduct race, and lost. That is the card of the proprietor. That is the one that gave me this. It reads "F. J. Hall, 56 New street, Room 5, ground floor." On the 29th day of April I entered the poolroom at No. 60 Broad street, called the Riley Grannin poolroom. I had some trouble there in betting at first. They knew I was a stranger because I only put \$2 down and I should have put \$5 down. The custom of the place was \$5 bets. I put down \$2 and had trouble. They took my name and gave me a card. This is the card, "Gilsey Club." Then I placed my bet and lost and went out. I bet on Jack Webber. On the 1st of May I entered the poolroom at No. 6 Murray street. I made a bet on Dashaway and lost \$1. This is the card that was given me, "The Parkway Club, 6 Murray Street, N. Y." On the 1st of May I entered the poolroom at No. 327 Third avenue. I there bet on Sky Scraper, two to one, and lost, and received that card. The card is "The Mahopac Club." On the 2d day of May I entered the poolroom at 101 West Twenty-fourth street. I placed a bet on Napooset, \$1, and lost. On the 2d day of May I entered the poolroom at 100 West Twenty-fourth street, right opposite the last poolroom. I placed a bet on Jack Webber at two to one, and won. This is the money, \$2.

## AFTERNOON SESSION—2 P. M.

Present of the committee, Mr. Mazet (chairman,) Mr. Hoffman, Mr. Wilson, Mr. Boland and Mr. Costello.

JOHN WOOD, resumed:

Examined by Mr. Moss:

On the 2d day of May I entered the poolroom, No. 278 Eighth avenue. I there found a poolroom crowded with men. I placed a bet on Egbert to win in the fifth Aqueduct race, at four to one, and won \$4. This is the money. The card is entitled the "Thomas M. Murray Association, 278 Eighth Avenue." I think it is about Seventeenth or Eighteenth street. I passed through a saloon to a back room, where a colored man was attending it; we went up one flight of stairs, turned first to the right, then to the left, and then to a man on the stairs, given a membership card, the Thomas Murray Association on it, also marked 250; we entered the poolroom.

By the Chairman:

Q. You were handed the card as you went upstairs? A. Yes, sir.

Q. Anything said to you? A. No, I don't remember anything particularly that was said to me, no, sir.

Examined by Mr. Moss:

On the 2d day of May I entered the poolroom at No. 218 Eighth avenue. I passed through a door in the back, one flight up stairs to another door, and entered the poolroom. It was well filled. I placed a bet on Brisk to win in the sixth Aqueduct race, and lost. On the 3d day of May I entered the poolroom at 29 West Thirty-fourth street. It is a private house, high stoop, brown-stone-front house. Went up the stoop, one flight of stairs, and entered the poolroom, two double parlors. I placed a bet on Dutch Comedian, to run first, in the second Newport race, and won \$3. On the same day, or May 3d, I entered the poolroom at No. 114 West Thirty-eighth street. That was a private house.

There were quite a number of persons there. I placed a bet on Desmond, to run third, in the fifth Aqueduct, at two to two, and lost. On the same day, May 3d, I entered the poolroom at the southwest corner of Forty-second street and Seventh avenue, No. 200 West Forty-second street. That poolroom was up stairs over the saloon. I placed a bet on Silver, to run third, in the fifth Newport race, at two to two, and lost. The card in this association is the "Kirkover Social Club." I received this at the ticket window where you paid the money. On the 4th day of May I entered the poolroom at No. 550 West Forty-second street. Went down two steps into the saloon and through; go up one flight of stairs to the poolroom. I placed a bet on Roysterer, to run first, in the Aqueduct race, and won a silver dollar. That is the silver dollar in the envelope. It is sealed and marked. On the same day I entered the poolroom at 232 East Eightieth street, a frame house. Went up one flight of stairs and went into the poolroom—a pretty small room it is. Made a bet of \$1 in the second Newport race on Indian, second place; won \$1. That is the dollar; and that is also a membership card. The card is entitled "Yorkshire Club, 232 East Eightieth Street, between Second and Third Avenues." On May 5th of this year I entered the poolroom at 186 East One Hundred and Fifteenth street. Passed in two short steps through a room, passed a lookout, up one flight of stairs, into four or five small rooms well filled with men. I placed a bet of \$1 on W. Bottom, to run third, in the fourth Louisville, and lost. On the same day I entered the poolroom at 1389 Third avenue. Passed in a side door, up one flight of stairs, passed the lookout, and into two large rooms well filled with men. I placed a bet on Amber Glints, to run third, and won \$1. This is the money. On May 6th I entered the poolroom at No. 12 Chambers street. Passed up a flight of stairs, turned to the left and entered a large room. There were many men in the room. The place was filled. I bet on Onota. Won \$1. This is the money. On May 6th I entered the poolroom at 124 West Fourteenth street, down two or three steps into a café, and through around back into a very large room used as a bowling alley. I bet on Libation, to run third, and won \$1. This is the dollar. On the 6th day of May I entered the poolroom at 54 East Forty-first street. Passed through a



side door of café and through a billiard room and into a room in back of that. That room was well filled with people; it was crowded, I say in the report. Placed a bet on Tanby, to run third in the sixth Newport race, one to one, and won \$1. On May the 8th I entered the poolroom at 147 East Forty-second street. Passed up a flight of stairs to the right into a very large room, filled with men. Placed a bet on Miss Annie, to run third in the fourth Newport race, one to one, and lost. On the 8th day of May I entered the poolroom at 145 East Forty-second street. Passed through the Sherman house, through the toilet into a side door into a very large back room, crowded with men, placed a bet on Sister Jane, to run third in the fifth Newport race, at two to one, and lost. On the 9th day of May I entered the poolroom at 118 Eighth avenue. Passed through the bar-room there and side door, up one flight of stairs, and into the next building into quite a large room, and entered at room 116; the room proper is in 118. Placed a bet on Lucid, to win, at the first Newport race, at three to one, and lost. On the 9th day of May I entered the poolroom at 155 Avenue C. Passed through side door of saloon and up two short flights of stairs, entered a large club room in front of the building, used as a lodge room. I placed a bet on Cangallo, to run one-two, at fourth Newport race, and lost. On the 10th day of May I entered the poolroom at 719 Third avenue. Mr. Harris went in. On the 10th day of May I entered the poolroom at 147 West Forty-second street. It is up over a restaurant; passed up one flight of stairs into a very large room. Placed a bet on Jockey Joe, to run third in the sixth Louisville race, at two to two, and lost. On the 12th day of May I entered the poolroom at 42 West Twenty-fourth street. Passed up a stoop of a private house and passed a colored man, up one flight of stairs, entered a large poolroom. There were not many people in the room. I placed a bet on Incidental, to run third, at two to two, at the first Louisville race, and lost. On the 12th day of May I entered the poolroom at 141 West Forty-first street. It is a private house. Passed up the stoop and up one flight of stairs, passed a colored man at the front door, and into a large room. It is O'Keefe's place. Placed a bet on Licabon, to run second, at two to two, and lost; horse came in third.

Mr. Moss—This is the place that was mentioned by the witness, Devery, as having been raided once, the place of “Honest” John Kelley.

On the 15th day of May I entered the poolroom at No. 9 St. Mark's place, which has been talked about to-day. Passed up a long iron stoop, through a short hallway and passed a lookout, entered a very large room in the back, filled with men. I placed a bet on Austrian, to win, at two to one, and lost. On the 16th day of May—that is yesterday—I entered the poolroom at Nos. 82 and 84 Church street. Passed up one flight of stairs, turned to the left and got into a very large room, well filled with men, placed a bet on Don D'Oro, to run one-two, at one to one, and lost. On the 7th day of April I got into the place at No. 584 Seventh avenue. At the door there was a man about fifty years of age, sandy hair and moustache. I went up one flight of stairs into a large room on the second floor. There were three gambling tables, roulette and faro, and the place was crowded. Bought a dollar's worth of chips and lost them in about twenty minutes. On the 8th day of April I got into a gambling house at 508 Sixth avenue. I am not sure whose place that was. Went up one flight of stairs to the first floor; there was gambling on the first and second floors. Bought a dollar's worth of chips and lost them in about fifteen minutes. There were other people gambling. I lost money at craps, shooting a game of craps, \$1. There were other games besides, being played, red and black, hazard, stud-horse poker, faro games, roulette and craps. Pretty near a full assortment. There were people playing at those games. The place was crowded. I had no trouble about getting in. I did not observe any police interference in any of those gambling houses which I have testified about to-day. No sign of it. It is near the corner of Thirtieth street on Sixth avenue. That is right around the corner from the Thirtieth street police station, Tenderloin police station. On the 10th day of April I entered the gambling house at 490 Eighth avenue, and I bet a dollar on craps and lost it; bet another dollar on red and black, and lost. It is back of the saloon I think, called the Homestead. There were other people playing there. The games that were being played was craps. They used a billiard table there to play

craps on. On the 25th of April I found a gambling machine at 15 West Twenty-fourth street, in a café. That was a small matter. I won fifty-five cents in nickels. I cannot answer whether there are any of these gambling machines in saloons in the city. This is the only one I have seen—no; one more on Forty-second street. On the 25th of April I entered the gambling house at 352 Third avenue. There was crap shooting in the back of a billiard room. There were many people engaged in that. The place was crowded. Won \$1.20. That is in the back of a billiard parlor. This billiard parlor was open from the street. You have to go down a few steps. It was perfectly open from the street. There is a small wooden partition about, I should judge, 8 feet high, dividing the billiard parlor and the gambling game; passed through a small door. It was easy to pass through—I did not have any trouble. There were people going in and out during that time, so that it was practically opened from the street. I won \$1.20. On the 25th day of April I entered the gambling place at 5 East Forty-second street—that was the gambling machine. I think it was 35 cents in nickels I got there. It is a machine where you drop the money and there are a certain number of chances against you. This machine is placed in the back of the café, in plain sight of anyone in the café. The other gambling machines all the same way in the back, perfectly open, so that anybody patronizing the café they played at that machine. It does not need anybody to attend the table. On the 26th day of April I entered the gambling house at 418 Eighth avenue. I found being played there red and black. I played and won \$1.50. There were other people playing. I had no trouble in getting in. Passed through the saloon, turned to the left, went up a flight of stairs; it is right at the head of the stairs. That is the same building they have got a poolroom on the floor. Perfectly easy to get in. On the 20th of April I found another crap game at 221 Third avenue. Go through, down two flights of stairs into a billiard parlor, and there is a curtain dividing the crap table and billiard parlor. You go behind the curtain to play at the table. Lost \$1.50 there. On the 1st day of May I entered a gambling house at 399 Seventh avenue. I found there a crap table. Bought \$1's worth of chips and lost them. They have hazard and craps both; I played both games and lost money. On the 4th of May I entered a gambling

house over Percy Nagle's café on One Hundred and Twenty-fifth street. I found there most every kind of game. They have got studhorse poker, red and black, hazard and roulette. I believe there are five tables altogether up above the saloon. I found men gambling at all those tables, crowded. I played red and black. I won \$1. That is the dollar. On the 10th of May I entered a saloon at No. 719 Third avenue, kept by Alderman Ledwith. Bet on Julia Hazel to run third in the sixth Newport race, and won \$1. I found there, back of the saloon, a poolroom. I bet on Julia Hazel and won \$1. That is the money.

Q. There is attached to this report of yours a letter of complaint; did you go there to investigate that complaint? A. Yes, sir.

Q. And that was the result of the investigation? A. Yes, sir.

Mr. Moss—I want to ask the chief of police right here, do you remember of receiving a letter of complaint against that place, poolroom, 719 Third avenue?

Mr. Devery—I haven't looked that up; I cannot tell you off-hand.

Mr. Moss—I have here a copy of the complaint which it was said was sent to you.

Mr. Devery—I don't remember.

Mr. Moss—Which I gave to Mr. Wood to investigate.

Mr. Devery—I don't remember it.

Mr. Moss—He says he went there and found the place and played.

The Witness—On the 5th day of May I entered the gambling house at 221 East One Hundred and Twenty-fifth street. That is Percy Nagle's—that is not 221; it is in One Hundred and Twenty-sixth street—165 East. One hundred and Sixty-five East One Hundred and Twenty-sixth street, it was there at one time. Two hundred and twenty-one, it was only there one hour; the landlord found out what it was and he didn't let it stay. That is the same place that was 2312 Third avenue. Then it moved to 221 and then 165 East One Hundred and Twenty-sixth. At the place on One Hundred and Twenty-sixth street I played red and black roulette and craps; lost \$1 and won \$1. This is the dollar that I won. It is a private house, I believe, and up above—you go up one flight of stairs and turn to the right



and enter the gambling room. It is a few doors from the corner. On the 5th day of May I entered a gambling house at 148 East Fourteenth street, over Wolfert's saloon. The kind of a game that was going on there was red and black—roulette and red and black. Bought two dollars' worth of chips and lost and cashed in when I lost \$1, and received \$1 in return. This is the dollar that was returned. On the fifth day of May, I entered a gambling house at 144 East Fourteenth street. The kind of gambling that was going on there, was red and black. Bought \$2 worth of chips and lost it in about ten minutes. There were other men gambling, plenty of them. Went up one flight of stairs and turned to the left and then to the front of the building. Not much trouble about getting in; hesitated a little. On the sixth of May I entered a gambling house at 482 Sixth avenue. Passed up one flight of stairs, turned to the right, passed a lookout into a large gambling room; red and black and roulette. I bought a dollar's worth of chips, lost them—lost them at red and black. on the sixth of May, I entered a gambling house at 444 Sixth avenue. Went up two flights of stairs and rang a bell—a Frenchman; they run roulette there; lost a dollar at roulette. There was three other people in the room besides myself. On the sixth of May, I entered a gambling house at 418 Eighth avenue; that is the same place, that was my second visit. There was always lots of people there at night. I played and lost. Bought two dollars worth of chips which I lost. On the eighth of May, I entered a gambling house at 1603 Broadway. I passed through a small office in front, used as a storage office into the back; they play policy and red and black. Bought chips, red and black, and lost \$2. There were other persons playing, quite a number. On the eighth day of May, I entered a gambling house at 208 West Fortieth street. Passed a colored lookout up one flight of stairs; on that floor in the front, they run a faro game; in the back same floor they run a roulette; played faro in the front room and lost \$5; they wouldn't sell less than five dollars' worth of chips. The card address is the "Cosmos Club, 208 West Fortieth street." They gave it to me when I went in. There were many other persons present, quite a number; and all were playing. On the eighth day of May, I entered the gambling house at 1188 Third avenue. The kind of a game going on there was stud-

horse poker. I lost \$2 playing stud-horse poker; they run a crap game there; the crap game was not going. Passed through a barroom and up one flight of stairs. On the tenth day of May, I entered the gambling house 23 Third avenue. Up one flight of stairs; gambling room was crowded; red and black. I lost \$1. Crowded with persons playing. On the tenth day of May, I entered a gambling house at 289 Bowery. Passed through a cigar store, through a partition; gambling on the first floor and also in the basement. Red and black, policy—red and black and policy. The policy they were playing was envelope policy. I don't understand much about it myself. They mark figures upon a board and draw from envelopes. I don't know how often they draw, about every fifteen minutes, I think. So that it is possible to have a good many drawings in the course of an evening. You can bet from one cent to a dollar, as much as you want to. There were about five or six people betting at the envelope game. At the other games, the tables were crowded. To get into that place you pass through a cigar store and through a partition. Partition behind the cigar store. I had no trouble in getting through? That place was practically open to the street; I had no trouble whatever. On the tenth day of May, I entered the gambling house at 72 Second avenue. Found a faro bank, red and black and roulette—faro; lost \$2 playing faro. Went up a stoop, rang the bell, the door was open, electric lock; passed through to the back and through a door and turned to the right. The place was full of men playing. On the tenth day of May, I entered a gambling house at No. 76 Second avenue; two doors away the same night. I got in there the same way; the building was situated the same; the house is on the same plan. I had no trouble in getting in. They were playing roulette and faro; I lost \$2 at faro. There was not so many persons there that day. Chips were very expensive there. This is a more expensive place than the other. On the eleventh day of May, I entered a gambling place at 118 West Thirty-first street. I found a crap game. Went up a high stoop, through a door, iron grated door and passed a lookout, passed a couple of billiard tables, then into a backroom; craps; lost \$2 there. The tables were surrounded with people. On the eleventh day of May, I entered a gambling place at 124 Park avenue. Went down a few steps into a café and passed through

—went through a door in the back of the cafe and then into a small gambling room, but there was roulette and red and black and craps, I believe. The crap table was not in operation. I lost \$2. I played red and black and lost \$2. The card attached to this is the Hackmen's Pleasure club, 124 Park avenue; right opposite the Grand Central depot. On the eleventh day of May, I entered the gambling house at 117 West Thirty-fourth street. Passed through the café and up through a side door, up one flight of stairs through two more doors and passed two colored lookouts, into a room; playing faro and roulette; the place was crowded. I bought \$5 worth of chips, the least you could buy, and lost. On the 12th day of May I did enter the gambling house at 318 Broome street. The game that was being played there, was craps. I passed through a billiard parlor and through a door in the partition and in the back there is a crap game; lost \$2 shooting craps. This was easy of access to the street. On the 12th day of May I did enter the gambling place No. 7 Delancey street. That was to investigate specially a complaint that was made. Passed through the billiard parlor and then into the room where they were playing craps; lost \$2 playing craps. The table was crowded with people. No other game. Nothing but craps. That is an established place; it has been there a long while, so I understand. On the 13th of May I did find a gambling place at 207 West Sixty-fourth street. Billiard parlor on the first floor. You have to go down a couple of steps to go into the parlor. Then you go into a door in the side and go up one flight of stairs where there is, I think a colored man. I lost \$2 at craps there. On the 15th day of May I did enter a gambling place at 1116 Third avenue, found there craps. Passed through the barber shop and up one flight of stairs, into a room; lost \$2 playing craps. On the 11th of May I did enter a gambling place at 154 and 156 Fourth avenue, another crap game; lost \$2 playing craps. There were other persons playing. The place was crowded. On the 16th of May I did enter a gambling house at 79 Third avenue. There was faro and poker, some kind of stud-horse poker; I do not understand the game; passed through a bakery shop, up one flight of stairs, and into the rooms—a double room. I played, lost \$2. The card attached to this is J. R. Winters, manager bakery and lunch room, 39 Third avenue. On the 16th of May I did find another crap game at 148 Third avenue, that was yesterday. I did play and lose; lost two dollars. The card attached to this is "The Club, 148 Third Avenue."

By Mr. O'Sullivan:

Q. Most of the places where you gambled were chartered as clubs, were they not? A. Yes, they had a certificate hanging up.

By Mr. Hoffman:

Q. What proportion of the places that you visited that you have described here were above saloons? A. Most of them.

Q. All licensed saloons? A. Yes, sir; I suppose they were licensed; I did not investigate it.

Mr. Henderson—In behalf of Captain Price I ask permission to cross-examine this witness.

The Chairman—No, sir; Dr. O'Sullivan appears for the police department; he is on record.

Mr. Henderson—Let us see——

The Chairman—We won't hear any discussion on this matter.

Mr. Henderson—That may be; I assume this commission is bound or should be bound by the rules established by other and former commissions.

The Chairman—Mr. Moss, call your next witness. Will you take your seat?

Mr. Henderson—After I have stated to the commission what I desire to say.

The Chairman—You will take your seat.

Mr. Henderson—I desire now to state that if it refuses the right to cross-examine the witnesses, it will be the first committee of the Legislature that has ever done so.

The Chairman—We do not desire to have any discussion on this subject. The sergeant-at-arms will see that this man is seated. You will take your seat then.

Mr. Henderson—As I understand it——

The Chairman—You understand nothing—we won't discuss the subject at this time.

Mr. Henderson—Will the chairman tell me when he will discuss the question?

The Chairman—At some future time; not now.



JOEL S. HARRIS, sworn:

By Mr. Moss:

Under your direction I have been visiting some poolrooms. On the 10th day of May I did visit a poolroom at 719 Third avenue, back of Mr. Ledwith's saloon. Passed through a saloon and by a lookout in the rear and up a flight of stairs into the room—and placed a bet—bet \$1 on Julia Hazel and won. On the 6th day of May I did enter the poolroom at No. 54 West Twenty-ninth street—Mr. Farrell's. I did not myself bet that day; I saw other men betting; I saw two or three men go up and put money in a hole, and to another side and then get money from there. I heard the announcement of the races running, they were called off.

By the Chairman:

Q. Is this place over a saloon? A. This place is sort of over a grocery store.

Q. No saloon; no sign of any chartered club there. A. No; I did not notice any sign there; I did not have anything to get in.

By Mr. Hoffman:

Q. Did you look to see? A. I did not pay any particular notice in there.

Mr. Moss—The other witness said he was no member of a club.

The Chairman—He also testified there was a number of those places over private houses where he went up a stoop.

Mr. Hoffman—He has testified a greater portion of the places were above saloons, where the excise officers have no right to enter unless they have written authority from the State board.

Mr. Moss—I want to correct that statement right here. I have had read into evidence the very section referred to by Assemblyman Hoffman, and a reading of that section shows it is not any such thing as has been considered by the learned assemblyman.

JOHN R. WOOD, recalled:

By Mr. Moss:

Q. Did you mean to say that in a majority of the cases, more than half of the places you visited they were over saloons? A. About half.

Q. About half? A. Yes, sir.

Q. And that is simply an estimate made roughly in answer to the question? A. Roughly, yes, sir.

JOEL S. HARRIS, recalled.

By Mr. Moss:

On the 6th day of May I did enter a poolroom at No. 114 West Thirty-eighth street, and I did there see men present betting on the races. On the 6th day of May I did enter Kelly & O'Keefe's room, at 141 West Forty-first street. That was not over a saloon. That is in a private house; go up one flight of stairs and there is a colored man there inside the door, which has an iron grating where the window should be in the front door, and by him, and then up another flight of stairs and into the poolroom. I did there find men betting on the races. I don't know whether I bet that time or not. No, I didn't bet at that time. But I saw money being bet. On the 8th day of May I entered the poolroom 114 West Twenty-eighth street, that is the same place again, but on a different day. I did bet on that day, on Venesa. And I lost. On the 8th of May I did enter the poolroom at 141 West Forty-first street. I did make a bet that day, \$2 on Teraper, and lost. On the same day I did go into the poolroom No. 147 West Forty-second street. That was not over a saloon, that is over a restaurant. You go in the side, east side of the restaurant, up a flight of stairs, a man up there called Marshall, lookout, passed in. I didn't bet at that time. But I did see others betting. The poolroom was in full operation. On the 8th day of May I did enter the poolroom 54 East Forty-first street. That was not over a saloon. That was at the side of a saloon, back. In the same building with a saloon, back, well; I don't know how to describe it; I think it is the same building; you go in the saloon; you can go in a hall, you turn to the left and go through a little room where there is a billiard table. You are not obliged to go through the saloon, it is not necessary. I did see men betting on the races there. On the 9th of May I did enter the poolroom 156 East Twenty-third street. That was not over a saloon at all. I did see men betting on the races there. It was a large room and was crowded; you could hardly move about in it. On the 9th of May I did again enter Kelly &

O'Keefe's room, at 141 West Forty-first street. And I did bet there. On Meddler—eight to two, and lost, in the fifth Newport race. On the 9th day of May I entered a poolroom, 147 West Forty-second street. That is not over a saloon, it is over a restaurant. I did see men betting on the horse races there. On the 9th day of May I did enter the poolroom 126 West Fourteenth street. That is not over a saloon. That is in the back of a saloon. You have to go through the saloon to get through it. I did not bet there. I saw men betting on the horse races. And in those cases the betting was done openly. Announcements were made as to the progress of the races, and the money paid in on the bets. And paid out and paid in; if you won you go up and just put in your slip in case it was a place where you wrote your horse down; tell them what it was; they would come out with the money. In no case did I see any evidence of police interference. I found nothing of the kind in none of the cases I testified to to-day. On the 9th of May I did enter the poolroom, 42 West Twenty-fourth street. That was not over a saloon. That is in a private house, up a flight of stairs in front; telephone in the back, and front they have the cards there and you made your bets there. A gentleman stands up against the mantelpiece; he writes your name down and pays you off. I saw men betting on the races there. On the 11th of May I did enter the poolroom, 938 Eighth avenue. That is on the side of a saloon. You go out through the saloon and then in back of that—practically in back of the saloon. I couldn't say whether you can go into it without going through the saloon. I placed a bet there, a dollar on Effect, and lost. The card attached to that is the "Hancock Club." When you go in you would say, "Give me a dollar on so and so." You say how you want him to run. You say, "Give me a ticket." He gets you out a ticket and he calls out the number at the same time. If you wish, you go up and get a ticket. There is a number on each of those tickets, when you bet that is your card of identification to get your money back. I did not get a card to get into the places. That is in case I have made a bet. That is their system of how they keep their records; there are different ways. The number of this is 535, and that was my number in the betting by which I was identified. Those are my initials right there. I put my initials on

for my own satisfaction to identify it. There is a man at the window. I say "Effect" to run third. He does not make any memorandum of my number. He has got a bookkeeper or sheet-writer. He just handles the money and calls out the money and the sheet-writer puts it down.

The Chairman—I ask these questions because it is contended under the definition of poolroom in the Penal Code that these are not poolrooms. It seems that the witness's explanation brings them clearly under the name "poolroom."

By Mr. Moss:

On the 11th of May I again entered Kelly & O'Keefe's poolroom, No. 141 West Forty-first street. I placed a bet on Little Sallie, at seven to two—three and a half to one, and lost; third Newport race. Both Kelly & O'Keefe were there. On the 11th of May I entered the poolroom at 1301 Broadway. That is over Corbett's place; passed a lookout; went up one flight of stairs and went into a room. There were men betting. I placed a dollar bet on Halftime—three to two, first Morris Park race. That I lost. On the 11th of May I entered the poolroom again, at 42 West Twenty-fourth street, and found men betting on the races. On the 12th of May I entered the poolroom at 1301 Broadway, Corbett's place. That is the same place I have testified about. Placed a bet on Fairy Dale, the second Louisville race, lost it; the place was well filled. I lost \$2. The place was well filled with men that were betting. On the 13th of May I entered the poolroom at 186 East One Hundred and Sixteenth street.

Q. Was that over or behind a saloon? A. Well, now, I am not sure; it is some kind of a store; I don't know whether it is a shoe store or saloon; but you did not have to go into the saloon to get up into it. I am sure you don't have to go through the store; you go through from the outside, and back of the house there is a yard; right in the back of the house; there are stairs covered; you go up these from the street—off the street. I placed a bet at third, Morris Park, at two and a half to one, and lost. My money was taken by a large man. The card attached to this is the "Mercer Social Club." That is what I received. When I paid my dollar in I got that. On the 13th of May I again entered the poolroom at 1301 Broadway. I placed a bet of \$2 on Pirate



M—eight to two, to win the first Morris Park, and lost. There were others present, several. On the 15th of May I entered the poolroom at 105 Park avenue. Got there through a saloon, by two look-outs, placed a bet on Master Ford, of a dollar, at five to one, and I lost a dollar. On the 16th of May, that was yesterday, I entered a poolroom at 82 and 84 Church street. Went in 84, right off the street, from the street, up a long flight of stairs, and passed the lookout, into a large room which covers 82 and 84, and saw men betting; placed a bet on Miss Kenny, second Morris Park, two dollars even, and lost. I did not go through any saloon to get up to that. This is the Astor club, 82 and 84 Church street. That is what is on the card given to me. On the 16th of May, yesterday, I entered the poolroom at 80 Park row. There is an entrance right off the street. You go up a long flight of stairs and past a lookout there, and into the room. I did not have to go through a saloon that time; right from the street. Placed a bet on Continental, first Morris Park, three to one, and lost it. There were other persons there—the report says “well filled with men.” Yesterday I again visited the poolroom at 1301 Broadway. I found other persons present, betting. Very well filled. I placed a bet on Latch Key, at four to two, and lost—third Morris Park race. The place was crowded with men betting. I was not a member of any club connected with any of those places. I was never asked to be. I was never asked to pay any initiation fee. I never noticed any signs of any club at any of those places; never noticed one. I never noticed any charter hanging up on the wall.

Q. There was nothing that would call your attention to club life or a club, the belongings of a club, in any of those places? A. One, sir. That was on Third avenue, and it seemed like sort of Masonic hall. Seven hundred and nineteen, I think, Forty-fifth street and Third avenue. That was Ledwith's place. That is the only thing, that looked like Masonic place, or an Odd Fellows' place. I mean to say that I saw things on the wall like Masonic emblems. That is what there was, at one end there was a stand where the master would sit, I presume.

Q. Do you mean Masonic, or do you mean any ordinary secret society, was there anything particularly Masonic? A. No, I couldn't say one way or the other.

Q. You were speaking of the ordinary arrangement of secret society club rooms, with the four stations? A. Yes.

By Mr. O'Sullivan:

I received my instructions from Mr. Wood, and I presumed that he got them from Mr. Moss. I visited some of the places that I have mentioned here more than once. I hardly think that I visited each one of the places twice. Well, I guess I have been to pretty near all of them once or twice, some of them three times.

Q. But the majority of them only once? A. No, more than once, poolrooms.

Q. Who makes up the reports—do you know—that you have consulted just now in your testimony? A. W. L. Sawyer. I write the report.

Q. You were asked by Mr. Moss whether some of those places were or were not over saloons? A. Yes, sir.

Q. Was there anything in the reports to show you whether they were over saloons or not? A. Well; we generally put "over saloons," "through saloon" or "up from street." We have to have something there to recall to our mind just exactly what it was.

Q. But your mind was prompted when you answered that question by something you saw in the report as to whether it was over a saloon or not? A. Certainly.

Q. How many places did you visit altogether, about, Mr. Harris? A. Well, of the poolrooms I guess about ten or fifteen, somewhere around there.

Q. You have testified here to a larger number, have you not? A. Well, a great many of them were repetitions of reports.

Q. Take the place that you have testified to, 147 W. Forty-second street, was that over a saloon? A. No, sir.

Q. You testified to that fact from memory? A. I did, sir.

Q. Was that fact embodied in your report, that it was not over a saloon? A. Well, it would be immaterial whether it was or not, because I have been at the restaurant and dined, and I know the place upstairs; I am around that neighborhood and I would know.

Q. But that fact was stated in the report, was it not, whether it was over a saloon or not? A. It may have been; that would constitute the report.

Q. (Handing witness report.) Read anything there in reference to the location of that poolroom, whether it is over a saloon or anything else? A. "Went to 147 West Forty-second, poolroom, entered from side of restaurant up one flight of stairs."

Q. You dictated this. A. No, sir; I wrote that myself.

Q. And they are copied in these forms? A. They are, sir. Of course I first make my notes the minute I go out of a place and go anywhere; I make my notes, and from my notes I make my report.

Q. In how many of these places did you find charters for clubs? A. Only the place I spoke about. I did not notice any there, either, at all.

Q. You did not find anything there but a variety of Masonic or Odd Fellow emblems? A. Some secret order, I don't know what it was.

Q. What do you expect to find in case it was chartered as a club? A. Well, I suppose it might have a club name up, something that looked like saloon license, something like that.

Q. In those what you call numbers of the tickets that you were betting on, didn't each one of those give the club name? A. They might.

Q. Do you say they did not? A. Some of them did.

Q. And do you say that they did not? You have had possession of each one of them? A. What I have had; I have only had these two or three.

Q. Have you ever entered any club outside of a pool club, Mr. Harris, a poolroom club as you call it? A. Well, I have been in some of the large clubs, but I cannot say that I ever looked for a charter though.

Q. Were you forbidden entrance until you had paid an initiation fee? A. Initiation fee was never mentioned.

Q. In any of those large clubs that you have been in? A. Well, I was taken there by people in large clubs.

Q. Have you ever entered a club, a large social or business club, without paying an initiation fee? A. To become a member of it do you mean?

Q. Enter such a club and mix in with its members without paying an initiation fee? A. No, I have never paid any initiation fee and I have never mixed in with any club.

Q. So you don't know what the usage in clubs happens to be, Mr. Harris? A. Well, I have got some idea from the Lenox

Banjo Club which I belong to, but it has gone by—or did belong to.

Q. Cannot any respectable looking man enter a club of that kind without paying an initiation fee, or without being stopped at the door? A. He can go in and sit down five or ten minutes; if anybody knows it he has got to go out. If he wants to become a member, he has got to pay his initiation, as we all did.

Q. If no one knew him, how would they know he was not a member? A. If no one knew him?

Q. Do all the members pass on each one that enters the Lenox club? A. It has only fifteen members; it was a musical club, a banjo club.

Q. I am speaking about any of the larger clubs. A. I know nothing about larger clubs at all.

JAMES A. MAHONEY sworn:

By Mr. Moss:

I live at 113 East Fifty-fifth street.

Q. What is your business? A. I am building just now—real estate.

Q. Building where? A. One Hundred and Forty-ninth street and Amsterdam avenue.

Q. Is that your regular business? A. Regular at times, yes.

Q. At times? A. Yes, it is regular enough.

Q. How long have you been building up there? A. Oh, four or five years.

Q. Building up there four or five years? A. Four or five years ago we built.

Q. Four or five years ago? A. Yes.

Q. The building you are now building, where is that? A. Next door to the corner, One Hundred and Forty-ninth street and Amsterdam avenue.

Q. How long have you been building that? A. About two months—three months.

Q. When before that were you building? A. About four years ago.

Q. What business were you in between the times of those two buildings? A. Well, I have been a bookmaker at the track. That has been my principal business, and is now; at all the tracks.



Q. At all the tracks, but at present at what tracks? A. None here.

Q. You were at the Morris track until recently, and before that at Aqueduct? A. No, I did not go to Aqueduct. I do not now have any horses. I have had horses.

Q. But your whole work is bookmaking at the race tracks? A. As a rule.

Q. Then that is not your whole work? A. No.

Q. That is not your entire business, bookmaking at the track, is it? A. Pretty near.

Q. But not entirely? A. I will say yes.

Q. By bookmaking you mean receiving bets and paying them when you have to and not paying them when you don't have to? A. That is right. You say paying bets when I have to?

Q. I mean by the outcome of the race; that is right isn't it? A. Yes.

Q. And not paying them when you don't have to by the outcome of the race? A. Yes, that is right.

Q. Have you an office anywhere in New York? A. I decline to answer.

Q. Why do you decline to answer? A. Well, I decline to answer because as a private citizen and not being an officeholder or connected with any department of the city of New York, I don't think you have a right to enquire into my private business.

Q. Oh, but Mr. Mahoney, you have no private business that you are ashamed of, have you? A. I won't answer that.

Q. You won't answer that? A. No; I am not ashamed of it.

Q. Well, then why don't you answer? Is your business stated in the directory? A. I won't answer that.

Q. Do you decline to answer upon the ground that your answer might tend to cause a prosecution for anything? A. No, I refuse to answer on the ground I already stated. I am a member of the Democratic club; I am a friend of Mr. Carroll; I am a friend of Mr. Sexton; I am a friend of the mayor; and I am a friend of other city officials. I am not a friend of Mr. Farrell—Frank Farrell; I would not know him if I should see him. I think I have met him once or twice, but I would hardly know him if I saw him. I know some police officials; I think I met Captain Price once. I don't know Inspector Cross. I am a friend of a police inspector; I know Kane very well. Kane is in the Harlem district now—upper part of the city; I met him around at the old place. I know Captain Thomas, casually. Oh, I drop in at the

Democratic club every now and then. I never talk over my business matters at that club. I have stayed here throughout this day and listened to the testimony of Mr. Wood and Mr. Harris; I have heard some of it. My hearing is not very good, not very bad, it is neither very good nor very bad. I heard the testimony; I know the gist of it.

Q. Were you interested in anyone of the places mentioned by either Mr. Wood or Mr. Harris? A. I won't answer.

Q. You won't answer that? Is that your private business? A. Same ground.

Q. Ah, but Mr. Mahoney, the places which those gentlemen mentioned, they mentioned as poolrooms, gambling places, and this committee is appointed to inquire into the administration of the law by the police department here; and so you see that it becomes pertinent at once to find out where the places are that exist, how they exist, and who are interested in them, and what the relations of those interested persons are to those whose duty it is to attend to the places. Now, you see at once that this question is pertinent to the inquiry, and that legally you have got to answer that question. Now, I want you to understand that thoroughly; and I ask you again, are you interested in any poolrooms described by the witnesses Wood and Harris? A. I refuse to answer.

Q. Upon the ground that your answer may tend to convict you of a crime? A. Not at all.

Q. Upon the ground that your answer may tend to degrade you? A. No.

Q. You have not hesitated to tell us that you are a member of the Democratic club, which is a private matter; you have not declined to tell us that you are a friend of various gentlemen, which you might have said was a private matter; and now, when we ask you about this public matter—matter of gambling—you are not willing even to exonerate yourself from the appearance of connection with that by answering the question. Now, I put it to you again, are you interested in any of those places? A. I refuse to answer.

Q. The same thing? A. Yes.

Q. Are you a friend of Chief Devery? A. Casually, I am a friend.

Q. You know him? A. Only casually.

Q. You have met him frequently, haven't you? A. No.

Q. Has he ever called upon you? A. No.

Q. Has he ever asked you a single question about poolrooms?  
A. No.

Q. Has he ever mentioned the subject of poolrooms or your connection with poolrooms? A. No.

Q. Have you ever met him at police headquarters? A. No.

Q. Have you ever met him at the Democratic club? A. No.

Q. Where have you met him? A. I don't think I have met him over once in seven years.

Q. Only once in seven years? A. I have seen him two or three times.

Mr. Moss—I think I have shown the pertinency of the questions. I don't know exactly what view to take of this matter just at this time, for I understand Mr. Mahoney's relation to these matters makes me a little tender of him; but I think we had better have the records straight, and I will ask you to direct him to answer the question which I have asked him and to answer all similar questions.

The Chairman—Mr. Moss, won't you ask him if he is interested in any particular place.

Mr. Moss—I am going to do that.

Q. I ask you, Mr. Mahoney, if you are not interested in the gambling place at 584 Seventh avenue. Do you answer? A. No.

Q. You say you are not? A. I am not.

Q. I ask you if you are interested in the poolroom No. 72 West Thirty-sixth street? A. I will say no to all of them.

Q. Before I ask them? A. Yes, or I say rather that I will decline to answer with regard to all of them.

Q. Is that what you mean to say, that you decline to answer?  
A. Decline to answer.

Q. I am going to ask you if that is what you meant to say when I asked you about the Seventh avenue place? A. Yes.

By the Chairman:

Q. You didn't mean you were not interested; you meant that you declined to answer? A. That I declined to answer.

By Mr. Moss:

Q. Then I ask you again are you interested in the gambling place at 584 Seventh avenue? A. Same answer.

Mr. Moss—Will you direct him to answer?

The Chairman—You are directed by the committee to answer that question.

The Witness—I decline.

Mr. Moss—This is particularly because the witness has declined to say that his answer would tend to incriminate or degrade him.

Q. Then I ask you whether you are interested—whether you have a business interest in the poolroom at No. 72 West Thirty-sixth street? A. Same answer.

Mr. Moss—These questions are all directed to be answered. I understand it is not necessary to go through the formula in each question.

The Chairman—All directed.

Mr. Hoffman—I suppose you are putting down the reasons he gives as to his declination.

Mr. Moss—That we understand to cover all, as to direction and answer.

Q. Have you a business interest in the poolroom at 109 West Thirty-fourth street? A. Same answer.

Q. Have you a business interest in the poolroom at 100 East One Hundred and Twenty-fifth street? A. Same answer.

Q. Have you a business interest in the poolroom at 156 East Twenty-third street? A. Same answer.

Q. Have you a business interest in the poolroom at 1108 Third avenue? A. Same.

Q. Have you a business interest in the poolroom at 12 Centre street? A. Same answer.

Q. Have you a business in the poolroom at 328 Bowery? A. Same answer.

Q. Have you a business interest in the poolroom at 938 Eighth avenue? A. Same answer.

Q. Have you a business interest in the poolroom at 111 West Twenty-third street? A. Same.

Q. Have you a business interest in the poolroom at 116 University place? A. Same answer.



Q. Have you a business interest in the poolroom at 133 East Thirteenth street? A. Same answer.

Q. Or at 584 Seventh avenue? A. Same answer.

Q. Or at 418 Eighth avenue? A. Same answer.

Q. Or at 100 Vesey street? A. Same.

Q. Or at 315 Canal street? A. Same.

Q. Or at 15 Tenth avenue. A. Same.

Q. Or at 183 Washington street? A. Same.

Q. Or at 1643 Third avenue? A. Same answer.

Q. Or at 6 Front street? A. Same answer.

Q. Or at 124 West Fourteenth street? A. Same.

Q. Or in any other poolroom in the city of New York?

Mr. Moss—Now, I think we may have the direction to answer all of these questions as to his business interests in poolrooms.

By the Chairman:

Mr. Mahoney, you have already testified that you were in the building business? A. Yes, sir.

Q. That is your private matter, isn't it? A. Yes.

Q. Personal matter? A. Yes, sir.

Q. You are not ashamed to inform the committee of that? A. I wanted to give some business.

Q. And then is that the reason you gave that business, because you wanted to give some reputable, respectable business—is that the reason? A. Well, that is one reason.

Q. What other reasons are there that you gave that answer? A. Well, that is about the sole——

Q. That is the sole substance of your answer? A. It looks better than to have no business.

Q. That, now that certainly was not any more of a private business or a personal matter than this one that has been asked you with regard to this other matter? A. Well, I think it is.

Q. You understand that the poolroom business is more or less connected with the police business; you understand that, don't you—that is, that it comes in direct conflict with the enforcement of the law; you know that, don't you? A. I couldn't say.

Q. Well, as an intelligent citizen—how old are you? A. About forty-eight.

Q. And you want us to have the impression that you have no opinion on that subject? A. I could not tell what opinion I have.

Q. You cannot? A. No, sir.

Q. How long have you lived in New York? A. All my life.

Q. You know there are such institutions as poolrooms in New York. Did you ever hear of them? A. Yes, sir.

Q. Did you ever visit any of them? A. That I decline to answer, too.

Q. The questions that have been asked you here relate directly to one of the purposes of the inquiry of this committee, namely: Influences affecting or relating to the conduct of the police department, and its failure to enforce existing laws? A. I am willing to answer any question relating to any department, or any officer, or any official.

Q. If we should ask you a question you would say you had no information, or didn't know. What do you know about the enforcement of the police laws of this city? A. Nothing more than I have learned here.

Q. Then you are not in a position to enlighten us any on that subject? A. No; I don't think I am.

Q. Are you in a position to enlighten us any on the poolroom business? A. No.

Q. You are not in a position to enlighten us, or do you decline to answer that? A. I decline to answer.

Q. Can you give us any enlightenment on the question of gambling houses in New York? A. No.

Q. Do you consider yourself competent to give any information on that subject? A. No; I don't think I am.

Q. What reason have you for declining to state or to answer the question that Mr. Moss has asked you in regard to this matter, which we consider pertinent to the force of our inquiry? A. Because I do not think you have the right to investigate the conduct of a private citizen.

Q. You do not, even if he violates the law? You do not think the committee has any right to go that far? Is that your judgment? A. No, sir; I do not think so.

Q. And that is the reason why you decline to answer the question? A. I don't think you have any right to investigate me.

The Chairman—We are not investigating you as an individual. We want to get at your relations with the government of this city.

The Witness—I will answer any question I can, relative to the government of the city or any official.

The Chairman—You have already testified that you are a book-maker?

The Witness—Yes, sir; that is right.

Q. You know the Penal Code makes some provision in regard to bookmaking, do you not? A. I believe it does.

Q. Don't you think that, in view of that, we have a right to make some inquiry? A. Well, you have a right to make the inquiry.

Q. Do you not think you are presuming a good deal to decide what the scope of this committee is? A. No.

Q. In view of your lack of knowledge of the subjects generally, that you are undertaking a good deal on yourself to decide as to what is relevant and what is not, in regard to the work of this committee? Do you think you are competent to decide? A. I am not deciding as to the committee. I am deciding as to myself.

Q. As to the work of this committee, on the right to enforce its inquiry? A. I can not criticise the course of the committee.

Q. Then what reason do you give for declining to answer questions that have been put to you with regard to the existence or the interest that you may or may not have in regard to these alleged poolrooms? A. I have already answered that.

Q. Will you answer it again? A. Well, it is a private matter.

Q. A private matter? A. Yes, sir.

Q. That is the only reason you have to give? A. That is the reason I give.

Q. That is the only excuse you have for declining to answer? A. The reason I give is this: That I am a private citizen, and not connected with any department, and not an official in any way, and I shall refuse to answer any question that I think is a personal matter or a private affair.

The Chairman—The committee now directs you, in view of what you have already stated, that you are engaged in the busi-

ness of bookmaking, and in view of what I have stated in connection with the purposes of the committee, to answer the questions that counsel has put to you.

The Witness—I must decline.

By Mr. Moss:

Q. I ask you this question, Mr. Mahoney: In connection with the business of any of these poolrooms, or of any poolrooms in the city of New York, have you within the last five years paid any sum of money to any individual who was a police or other officer of the city government? A. I have not.

Q. Directly or indirectly? A. Directly or indirectly.

Q. Do you keep records of your financial transactions? A. No, sir.

Q. You have no records? Have you been permitted by any city authority to carry on the business of any of these poolrooms that I have mentioned, without interference? A. Not at all.

Q. You have not been permitted? A. No.

Q. Have you carried on business at any of these poolrooms without interference? A. I decline to answer.

Q. You decline to answer that? You see how close you go, and how suddenly you haul up? A. That is right.

Q. Did you learn that "private business" answer at the Democratic club? A. No, sir.

Q. Did you talk over the testimony before the Mazet committee at the Democratic club? A. No.

Q. Was the subject of testimony before this committee mentioned at the Democratic club? A. Not that I know of. It might have been.

Q. Have you ever been interfered with by the police or any other city official in regard to the business of any poolrooms in the city of New York? A. I decline to answer.

Q. On the same grounds, I suppose? A. The same grounds.

The Chairman—The committee directs you to answer the question.

The Witness—That is my answer.



Q. Did you not say a minute ago that you would answer any question relating to officers? A. Yes, sir.

Q. Did you not? A. Yes, sir.

Mr. Moss—Then I will have the question repeated.

Q. (Repeated.) Have you ever been interfered with by the police or any other city official in regard to the business of any poolrooms in the city of New York? A. I don't admit having any poolrooms in the city of New York.

Q. Do you deny having any poolrooms in the city of New York? A. I won't answer.

Q. Now, you say you do not admit having any, but when I ask you the next thing, do you deny having any, you will not answer; but I appreciate how delicate this matter is to Mr. Mahoney. Now, I ask you, once more, Mr. Mahoney—you realize the obligation to tell the truth here and the whole truth? I ask you once more, upon the strength of your promise (and I know what the promise of a sporting man ought to be) upon the strength of your promise to state anything affecting official action, I ask you once more to answer: Have you ever been interfered with by any official with regard to the conduct of the poolroom business anywhere in the city of New York? A. I can't answer that.

Q. Why can you not answer that? A. Because I don't admit to having any poolroom in New York, and neither can I—

Q. But you have not denied it? You cannot deny it. Can you deny and will you deny— A. I cannot answer the question.

Q. Will you deny that any police officer has ever interfered with you in the matter of the poolroom business in the city of New York? A. I can't answer the question.

Q. Why can you not answer it? A. Because I answered it the best way I knew. I can't answer it.

Q. Have you or have you not? A. I can't answer it.

Q. Why can you not answer it? A. Because I don't know.

Q. Because you don't know? A. I can't answer that question.

Q. You do not know whether you have been interfered with by a police officer in regard to the poolroom business in the city of New York. Now, why do you not know? Have you forgotten? A. No.

Q. Do you remember? A. No.

Q. You do not remember? Well, how is that, if you have not forgotten? Why do you not remember? A. Let me see. The question is——

Q. The question is, upon the strength of your promise to tell official matters, and you realizing now that you have been directed by this committee to answer—I ask you again, have you ever been interfered with by any city official in the conduct of the pool-room business in the city of New York? Yes, or no? A. Yes, sir.

Q. You have been? A. Yes, sir.

Q. When? Let me hear? A. Many years ago.

Q. How long ago? A. Twelve or fifteen.

Q. By whom? A. I could not tell, it is so long ago.

Q. What business was it? Where? A. I have forgotten where it was.

Q. Was it in this city? A. I think so.

Q. Was it one place or several places? A. I don't remember where it was. I know there was an interference some way or other.

Q. What kind of interference was it? A. I don't know. The place was shut up, or something of that kind.

Q. Were you arrested? A. No.

Q. Was any one arrested? A. Oh, no. I don't remember much about it.

Q. Was the place allowed to open again? A. I don't know. I remember only that there was an interference.

By the Chairman:

Q. What did the interference consist of? A. I don't remember, it is so long ago.

The Chairman—You must have some recollection.

The Witness—That is about all. I know there was a place years and years ago, on Centre street.

By Mr. Moss:

Q. No. 12, was it not? A. I think so.

Q. The same place that is there now? A. I don't know that there is any place there now.

Q. There is a place at 12 Centre street, on the testimony of Mr. Wood? A. I don't know.

Q. That was a place that was interfered with some years ago? A. I think so.

Q. Has it ever been interfered with since, to your knowledge? A. I don't know.

Q. You do not recollect any interference with it since then, do you? A. I don't know anything about it.

Q. You do not know of any interference since then? A. I don't know whether there is any place there or not.

By the Chairman:

Q. Are you interested in it? A. I should say not.

By Mr. Moss:

Q. You said a minute ago when I asked you, if you were interested in 12 Centre street, that you declined to answer. I ask you again, are you interested in a business way at 12 Centre street? A. I decline to answer.

Q. You a minute ago said you were not? A. It is the same thing.

Q. Which of your answers stand? A. I decline to answer.

Q. Did you make a mistake when you said you were not interested in any? A. Yes, sir; I made a mistake in saying no.

Q. You made a mistake in saying no when you were asked if you were interested in No. 12 Center street. Of course, you did. That is the place twelve or fifteen years ago where you were interfered with. Do you mean to say that there has been no interference that you can recollect at that place since twelve or fifteen years ago? A. No.

Q. Never was? A. No.

Q. Not in your life? A. No.

Q. What police officer was it that interfered at 12 Centre street? A. I couldn't tell.

Q. Was he a captain? A. I don't remember.

Q. How long was the place interfered with? A. I don't remember that, either.

Q. How long did it last? A. I can't recollect.

Q. You cannot recollect? A. No; it is a long while.

By the Chairman:

Q. Was it a poolroom or what? What kind of business was being conducted there? A. Yes, sir; a poolroom; call it a poolroom.

By Mr. Moss:

Q. When did you give up the poolroom business, if you ever gave it up? A. I decline to answer.

Q. Did you ever give up the poolroom business? A. I decline to answer that, too.

Q. Will you deny that you are still continuing the poolroom business at 12 Centre street? A. I decline to answer that. You just asked that question before.

Q. You hire a good many telephones, do you not? A. I decline to answer.

Q. Why, there is nothing the matter with telephones, is there? It depends upon how you use them, does it not? Does it not? Eh? A. I decline to answer the question.

Q. You have not less than fifty telephones up there on Forty-second street, have you? A. I decline to answer.

Q. You will not deny that will you? A. I decline to answer.

Q. You decline to answer whether you will deny it or not? Is that it? A. I decline to answer.

Q. Have you not a place of business at Forty-second street, at Mr. Egan's printing house? A. I decline to answer.

Q. You will not deny that you have it, will you? A. I decline to answer.

Q. Were you ever interfered with by any police officer at the Forty-second street place? A. That I will decline to answer.

Q. That relates to police officers again. Now, it is a serious matter to decline to answer a question that is a proper question, and you know it very well? A. No; I never was.

Q. You never were interfered with by any police officer at the place in Forty-second street? A. No.

Q. Did any police officer ever examine the wires over the place at Forty-second street. A. I don't know.

Q. Did you ever hear of any police officer examining those wires? A. Not that I know of.



Q. Did you not hear of the police officers examining those wires in the year 1897? A. Not that I remember.

Q. You might have forgotten it? A. I might have.

Q. I will refresh your recollection a little more. Do you not remember that Chief Peter Conlin sent men who went on the roof of Egan's place on Forty-second street and examined those wires? Do you not remember that? A. No; I have no recollection of it.

Q. You have no recollection of that? A. No.

Q. Was it not reported to you? A. Not that I remember.

Q. If it had happened, would it not have been reported to you naturally? A. It might have been and it might not have been.

Q. But it is simply a matter of forgetfulness? Is that all? A. I don't remember.

Mr. Moss—That is a fair and square answer.

The Witness—Yes, sir; that is the answer.

Q. It may have happened? A. It may have.

Q. And you may have been notified? A. It might be.

Q. But if you have been you have forgotten? Did any police official connected with the telegraph bureau put any wire into your place in Forty-second street? A. I don't know.

Q. You would know if it had happened? Can you answer that question? A. No; I cannot.

Q. It might have happened and you not know it? A. No.

Q. Would you not naturally be informed if a police officer had done that? A. I might have.

Q. It would have been natural for you to have been informed of it, would it not? A. Very likely.

Q. Can you account for the doing of a thing of that kind and you not being notified? A. No; I don't understand it.

Q. You cannot account for it? A. I don't remember anything about it.

Q. But do you not know whether or not that was done? A. No; I do not.

Q. And you do not remember police officers investigating the business there in Forty-second street, in that house there, Eagan's,

going in to Eagan's place and up in the rooms above there, where the telegraphs are? A. No.

Q. You do not remember any such thing as that? A. No.

Q. It could hardly have happened without your knowing it, could it? A. Yes, sir; it could.

Q. But hardly? A. No.

Q. It is not likely that it would? A. Generally, I would.

Q. Generally, you would know? Who should have told you?

A. I don't know. I suppose whoever was in charge at the time.

Q. Who was in charge in the latter part of 1887? A. I don't remember; I can't tell.

Q. Who is in charge now? A. I decline to answer.

Q. On what ground? A. A private matter.

Q. Has not the person in charge of that place now told you about a visit of police officers made during this very present month to that building? A. No.

Q. If they had visited it, it was his duty to tell you, was it not?

A. Oh, I don't know. He might and he might not.

Q. You would expect him to tell you about such a thing as that would you not? A. I would very likely hear of it. I should expect to hear of it.

Q. Who is the person that reported to you any such visit by police officers this month? A. I decline to answer.

Q. Now, we are talking about police officers again. Who is the person in charge there who should have reported to you the visit of a police officer this month? A. I couldn't tell you. I decline to answer.

Q. How many persons are in charge there? One or two? A. I decline to answer that.

Q. Do you pay the bills for the telephones at Forty-second street? A. I decline to answer that question.

Q. Will you deny that you pay them? A. I won't answer.

Q. You will not answer the question at all? A. No.

The Chairman—Is it in evidence here that this place was a poolroom?

Mr. Moss—No; not the place where there is a poolroom. I am speaking now of the place at Eagan's.

Q. You testified that if these things had happened in 1897, they should have been reported to you. They probably would have been reported to you? Where do you say you live? A. At Fifty-fifth street.

Q. Why should they have been reported to you if they occurred in 1897? A. I would very likely have heard about it.

Q. Why should they have been reported to you, if a police officer had gone to work examining those wires? Why? A. I could not give you any reason why.

Q. You could not? A. No.

Q. Why, were you not interested in that place in 1897? A. I decline to answer.

Q. All right. You decline to answer that. When were you last at No. 12 Centre street? A. Oh, I don't know; about fourteen or fifteen years ago, I guess.

Q. That was the last time you visited it? A. Yes, sir.

Q. You do not visit these poolrooms daily, do you? A. I never visit poolrooms.

Q. You never visit poolrooms at all? That is not a part of your work, is it? A. That I decline to answer.

Q. You do not visit the poolrooms that you are interested in, do you? A. I didn't say I was interested in them.

Q. Are you? A. I decline to answer.

Q. Do you deny that you are interested in them? A. I decline to answer.

Q. Exactly. Do you visit the poolrooms that you do not deny that you are interested in? A. I do not.

Q. You do not visit them? Now, you see how far we go. That is a private matter, too. Why do you not visit them? A. I don't visit them.

Q. It is not necessary is it? A. I don't think it is necessary for anybody to visit them.

Q. It is not necessary for you to visit these poolrooms, is it? A. I don't think it is necessary for anybody.

Q. You supply the money to back them, do you not? A. I won't answer that.

Q. Why will you not answer it? A. Because I decline. For the same reason.

Q. For the very same reason? A. The very same reason.

Mr. Moss—Will you direct him to answer the question?

By the Chairman:

Q. Do you decline to answer it because it will degrade you?

A. No.

Q. Or incriminate you? A. No.

The Chairman—The committee thinks you ought to answer the question, and directs you to answer that question.

The Witness—I must decline.

By Mr. Moss:

Q. Have you had any business dealings with Mr. Carroll? A. No.

Q. Have you not been interested in real estate with him? A. No.

Q. Have you had any business dealings with Mr. Sexton? A. Never.

Q. You never had any real estate interests with him? A. Never.

Q. Were you not a near neighbor of Mr. Sexton's once? A. Not that I know of; no.

Q. Did you not live in Fifty-first street, once? A. Yes, sir.

Q. Was not Mr. Sexton a near neighbor of yours? A. I don't remember whether he was or not.

Q. Was not Mr. Carroll a near neighbor of yours? A. Yes, sir.

Q. Mr. Carroll was? A. Yes, sir.

Q. How near did he live to you? A. About six doors down.

Q. You became quite familiar with him then, did you not? A. Oh, no; I have known him since he wore knickerbockers.

Q. Were you interested with the mayor in business matters once upon a time? A. Well, we were in a corporation at one time.

Q. A corporation where? A. In Texas.

Q. How many years ago? A. I guess that is about ten or eleven years ago.

Q. You lived in the city of New York then, did you not? A. Yes, sir.



Q. And that was after the time that you had the interference at 12 Centre street, was it not? A. I guess it was; yes, sir.

Q. Were you being interfered with in that poolroom at 12 Centre street, at the time you had that business interest with Mr. Van Wyck? A. No.

Q. You were not? A. No.

Q. Had the interference stopped then? A. I guess the whole thing stopped.

Q. You guess? A. I think the whole thing stopped.

Q. Was your poolroom running at that time, ten years ago, at 12 Centre street? A. No; not that I know of.

Q. Are you sure it was not running? A. Yes, sir.

Q. When did you close that poolroom? A. I can't remember the date.

Q. Did you ever close that poolroom? A. Of course it was closed.

Q. Did you ever discontinue the business, once and for all, at that poolroom? A. Discontinued it once; yes, sir.

Q. And for all? A. Yes, sir.

Q. Without resurrection? A. Yes, sir.

Q. When did you cease to have any interest in the poolroom at 12 Centre street? A. Oh, about thirteen or fourteen years ago, or somewhere around that.

Q. You actually ceased then? A. Yes, sir.

Q. At that time did you have any interest in any other poolroom? A. Not at that time.

Q. Was that the only one you had at that time? A. Yes, sir.

Q. Were you then engaged in bookmaking? A. Yes, sir.

Q. Were you engaged in bookmaking at the time you had the Texas real estate transactions? A. Yes, sir.

Q. Were you interested in any poolrooms at the time you had the Texas real estate transactions? A. I decline to answer that.

Q. Who were your partners in any poolrooms that you were interested in ten years ago? A. I decline to answer that, too.

Q. Who are your partners now in any poolrooms that you are interested in? A. I decline to answer that.

Q. Who do you divide the profits of the poolrooms with now? A. I decline to answer that.

Q. All on the same grounds? A. All on the same grounds.

Mr. Moss—The same direction, if you please.

By the Chairman:

Q. Have you any partners in that business? A. I decline to answer.

The Chairman—The committee directs you to answer.

The Witness—I must decline.

The Chairman—I think they are important and material.

The Witness—I decline to answer anything about my private business.

By Mr. Moss:

Q. Where is your office? A. I have no office.

Q. Your central or main office? A. I have no main office.

Q. Have you not an office in Egan's, at Forty-second street?  
A. I decline to answer.

Q. You will not deny that you have an office there? A. I decline to answer.

Q. You decline to answer that? A. Yes, sir.

Q. Do you divide the profits of any poolroom with any city official? A. I divide nothing with any city official.

Q. You divide nothing with any city official? A. Yes, sir.

Q. Do you divide the profits of any poolroom business with any member of Tammany Hall? A. I divide nothing with any member of Tammany Hall.

Q. Do you divide the profits of any poolroom business with anybody? A. I divide nothing with anybody.

Mr. Moss—I am asking you now about the poolroom business.

The Witness—I decline to answer.

By the Chairman:

Q. Have you any partners in the poolroom business among the members of the police force? A. I decline to answer—there is no member of the police interested with me in any way, shape or form, in any kind of business.

By Mr. Moss:

Q. Then why can you not answer my question? I asked you whether any member of the police force, or any person connected with the police force, was in any way a partner with you in the pool room business? A. There is no member of the police force has ever been a partner with me in anything. That is the best answer I can give to you.

Q. Has any member of the police force, any officer or member of the police force, any interest that you know of in the poolroom business? A. I can't answer that.

Q. Why not? A. I have already answered that there is no member of the police force has any interest with me or any partnership with me in anything.

Q. That was not my last question. My last question was—you say that no member of the police force to your knowledge, has any interest in the poolrooms in this city? A. Not to my knowledge.

JACOB HESS, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am one of the police commissioners. I was appointed by the mayor. I forget whether it was the 19th or the 21st. I can't remember. I was appointed, I believe, as a republican in the bi-partisan board.

Q. And your first act, your first official act, was to vote for the retirement of chief of police McCullagh, was it? A. Yes, sir.

Q. Did you vote upon that question as a representative of your party in the bi-partisan board? A. No.

Q. Upon what basis did you vote for the retirement of Mr. McCullagh? A. Well, I was appointed by the mayor, and I saw what happened to Mr. Hamilton and Mr. Phillips, and I knew—I didn't want to share in the same fate that they had.

Q. You knew what would happen to you if you did not vote to retire McCullagh. Is that so? A. Yes, sir; and another reason——

Q. What was the other reason? A. I believed there ought to be a union between the chief and the commissioners.

Q. You believed that there ought to be a union? A. Yes, sir; harmony.

Q. You believed that before you were appointed, did you not?  
A. Yes, sir.

Q. Did you really think about it before you were appointed that the chief ought to bend to Commissioner Sexton? Did you really think that before you were appointed? A. I gave it no thought.

Q. But as soon as you were appointed, then you thought that McCullagh ought to bend to Commissioner Sexton, did you not?  
A. Not to Commissioner Sexton.

Q. But to the commissioners? A. To the commissioners.

Q. Did you know that the question at issue was upon the transfer of policeman McConnell? A. No, sir.

Q. Did you know that it was upon the transfer of Captain Herlihy? A. No, sir.

Q. Did you know what it was about? A. No, sir.

Q. Did you know which was right? Did you know whether it was McCullagh or Commissioner Sexton that was right? A. Only what I have heard here.

Q. Did you know at that time which was right? A. No, sir; I did not.

Q. Did you undertake to inquire? A. No; only what I read in the papers.

Q. But you said you had given no particular thought to the matter before your appointment. Did you know whether or not Commissioner Sexton was trying to force Chief McCullagh to do some wrong thing when you were appointed and voted? A. Only what I read in the papers, and heard here.

Q. But you had not read it then, had you? It was all a new matter to you then, was it not? A. Oh, no; there were several articles in the papers about it.

Q. But there were no articles about McConnell, in the papers, were there? A. Not that I know of.

Q. And there were no articles about Herlihy in the papers, were there? A. I think there were.

Q. Before you were appointed? A. I don't remember.

Q. Did you read any before you were appointed? A. I read about this removal of Mr. Hamilton and Mr. Phillips.

Q. Of course, but I am talking about the cause of difference between McCullagh and Commissioner Sexton. Did you know whether or not Sexton was endeavoring to get McCullagh to do something wrong, or did you know whether McCullagh was try-



ing to do something wrong? Did you know anything about the rights of the question? A. Oh, yes.

Q. Which was right, in your judgment, at that time? A. I think the chief ought to pay deference to the wishes—ought to make assignments and transfers at their request.

Q. Did you think so at the time they were voting? A. Yes, sir.

Q. Did you think so because you were going to be a commissioner? A. I didn't know I was going to be a commissioner.

Q. But I say at the time you were commissioner and making up your mind, were you moved by the thought that you would be a commissioner and you would want some transfers and assignments made? A. No, not at all.

Q. But the main reason in your mind, the reason you mentioned first, was that from the newspapers you had discovered that Hamilton and Phillips were being removed because they would not consent to remove McCullagh? A. That was my knowledge of it.

Q. That was your knowledge; and in order that you might not share their fate you did what the mayor wanted you to do? A. The mayor didn't ask me to do it.

Q. I know; but you knew what he wanted? A. I had an impression, yes, sir.

Q. You had an impression. An impression that lasted long enough for you to act? A. Certainly.

Q. And you realize and recollect that the first act that you did was the removal of Mr. McCullagh? A. The retirement.

Q. Did you know at that time whether he was a republican or a democrat? A. I didn't know what his politics were.

Q. You did not then? A. No.

The Witness—McCullagh said he had no politics yesterday, himself, on the stand.

Q. I understand. Now, you knew that you could not hold your position unless you did that which the mayor wanted you to do, as you saw from the papers? A. I didn't know that.

Q. You believed it, did you not? A. I believed it, yes, sir.

Q. What was the salary that you expected to get? A. Five thousand dollars a year. I was in business at the time, the cigar business. I am in the cigar business now.

Q. You had an independent living, had you not? A. No.

Q. Had you not a living outside of the salary of police commissioner? A. No, I have not.

Q. You were not making enough to live on? Is that true? A. That is right. That is true.

Q. And you need that \$5,000 to live on? A. Yes, sir.

Q. But in order to get that \$5,000 to live on, you consented to go into that arrangement, as a Republican, in a bi-partisan board, to carry out the wishes of the mayor. Is that it? A. Yes, sir.

Q. What was there to compel you as an American citizen to put a collar around your neck when you went into that office?

Mr. O'Sullivan—Is that a proper question—"put a collar around your neck?"

The Chairman—I think the question was—the witness understands what Mr. Moss refers to, when he has testified the purpose for which he went in and knew what was wanted there.

The Witness—I wear no man's collar.

Q. No. But when you learned what the mayor wanted, you were not then an official were you? When you learned in the newspapers what he wanted, you were not an official were you? A. No.

Q. Was there anything to compel you to become an official, to go in there, and perform the act of decapitating a public servant? Was there anything to compel you to become a police commissioner, or to do that thing? A. Nothing to compel me.

Q. Nothing to compel you, except that you were not making much money in your business, and you wanted the \$5,000? A. That is it.

Q. And was it entirely that you wanted \$5,000 a year that you were willing to go in there and carry out the wishes of the mayor? A. Not exactly.

Q. That was one of the reasons? A. One of the reasons.

Q. Even though it led to the removal of a chief of police against whom there was no charge and no suspicion of corruption, or inefficiency? Is that so? A. Yes, sir.

Q. And you never heard of any serious charge made against Mr. McCullagh while he was the chief of police, did you? A. Never.

Q. Or as a police officer? A. Never.

Q. You never heard his integrity or his efficiency questioned, did you? A. Never.

Q. And you knew he was the man who had carried all the burden and all the labor appertaining to the office of chief of police in bringing the force of these different boroughs into consolidation, and in starting out the new police force, did you not? A. Yes, sir.

Q. And as between men, he being efficient, and an honest man, and a man who had welded together the parts of the new force, was he not entitled to remain there? A. I don't—I think there are other people in the force that would be as good as he was.

Q. Of course; but he was there? A. He was there.

Q. And he was doing his work well, as you say, and he had already done the labor of preparing that force to go on with this work? A. I didn't view it in that light at all.

Q. You did not? A. No.

Q. Had you anything against McCullagh? A. Nothing.

Q. Not a thing? When did you find out that McCullagh was a brother Republican?

The Witness—When did I find out?

Mr. Moss—Yes.

A. Why, he told me after that; after he was out of office.

Q. After he was out of office? A. Yes, sir.

Q. Then there was nothing that Mr. McCullagh had done while chief of police that made his partisanship so prominent as to enable you, a public man, to know whether he was a Republican or a Democrat? Is not that so? You did not know? A. I did not know.

Q. And then he had administered his office so impartially and so freely of politics that you, a prominent public man, did not know his politics? Is that so? A. That is so.

Q. And you have held political positions for years, have you not? A. I have.

Q. Under various appointments of various mayors, have you not? A. Yes, sir.

Q. You have been a politician for the better part of your life, have you not? A. Yes, sir.

Q. And you have made your living generally in politics, have you not—the salaries of your positions? A. I have always had a business.

Q. But your business has not been able to support you? A. That is true, lately.

Q. Only lately? Is that so? A. Only lately, yes, sir.

Q. When did you first hear that you were going to be a police commissioner? A. On the Friday before the Saturday.

Q. Who told you? A. I was telephoned that the mayor wanted to see me.

Q. Did you go right there? A. I went there Saturday.

Q. You did not go right down Friday? A. No.

Q. Did anyone else talk to you about it besides the mayor? A. Nobody.

Q. He was the only man? Did anyone speak to you before you were appointed, besides the mayor? A. No one. I was a candidate for Aqueduct commissioner, and I thought, when he sent for me that he was going to appoint me on the Aqueduct commission.

Q. But you were surprised to find that you had a better position, police commissioner? A. I don't know that it is any better. I wish I hadn't taken it.

Q. Do you regret what you did? A. I do.

Mr. Moss—That is manly.

The Witness—I mean, so far as the position is concerned. It is an excellent place.

Q. Do you regret what you did in performing your first official act in removing a good public servant? Do you regret that? A. No, I do not.

Q. You do not? A. No.

Q. Do you think you did a good public act then? A. I think so.

Q. On what ground? A. On my own views on the subject.

Q. Your own views? A. Yes, sir.

Q. Which were that you wanted to get that \$5,000, as you have just stated? That is it, is it not? A. And I believed—

Q. And so you did a good public act, because you put yourself in a good position, with a good salary? Now, if you will pardon me just one moment longer. There is a little matter that I want to ask you about right here. The president of the board, Mr. York, in response to my request, has given me to-day a statement concerning the purchases of horses for the police department? A. Yes, sir; I know that horses are purchased for the police department. I am on the committee on repairs and supplies, I am second on that; I am on the committee on pensions. The com-



mittee on repairs and supplies has to do with the purchase of horses.

Q. And according to this statement handed to me by Mr. York, your committee since May 24, 1898, down to April 22—I asked for six months—has purchased all its horses from M. McDonald, everyone of them. Who is M. McDonald? A. I don't know.

Q. Where is his place? A. I don't know.

Q. Do you not know, as a member of the committee, anything about it? A. We authorized by resolution the chief to buy three horses.

Q. Then it is a matter of the chief's? A. Yes, sir.

Q. You authorize them. That is, your committee? A. No.

Q. The board? A. The board.

Q. The board authorized the chief to purchase three horses. Is that all? A. Purchase three horses.

Q. Only three horses in six months? A. No, not in six months.

Q. How often did you authorize him to buy three horses? A. So as to keep the amount within a thousand dollars.

Q. So as to keep the amount within a thousand dollars? A. Yes, sir.

Q. Why did you want to keep the amount within a thousand dollars? A. Because we can't spend over a thousand dollars and you can't buy horses by public letting.

Q. You cannot spend over a thousand dollars for any purpose without a public bid, can you? A. No.

Q. And in order to prevent a public bid you directed the chief to buy three horses at a time? A. At the request of the superintendent of the stables—of the horses. He makes the request.

Q. The superintendent of the horses makes a request on the chief, and then he has to buy? A. No, he makes the request of the board.

Q. And then you directed the chief to buy the horses, three at a time? A. Yes, sir.

Q. How often have you ordered him to buy three horses at a time? A. Oh, every week or so.

Q. Every week or so three horses at a time? Did you ever order him to buy two batches of horses on one day? A. Not that I remember.

Q. Let me read to you: "1898, May 24, M. McDonald, three horses, \$250, \$250, \$225, amounting to \$725." Again the same day, May 24th, M. McDonald, three horses, \$250, \$250, \$225, \$725; again the same day, three horses, \$250, \$250, \$225, \$725.

The Witness—On what date?

Mr. Moss—On the 24th of May. Here are nine horses all on one day, at the aggregate price of \$2,175, but bought in batches of three? A. I don't remember any such transaction at all.

Q. The purpose, when they were directed to buy three horses at a time, was to keep it inside of a thousand dollars, was it not? A. Yes, sir, that was the object.

Q. And that you understood? A. Yes, sir.

Q. And that all the commissioners understood? A. I don't see how that could be done. I doubt very much if it was done.

Mr. Moss—I am taking the figures that Mr. York handed to me in this room to-day.

The Witness—Will you kindly let me see that?

Q. Yes. Do you know the handwriting? A. I don't know the handwriting, but I presume—you say you got it from Mr. York?

Mr. Moss—Yes.

A. (continuing.) It must be correct. They may have been ordered before I got in the board. I know that we never did order anything on one day over three horses.

Q. Let me see if there is not something else on this list of the same kind. July 5, three horses, \$250, \$250, \$250, making \$750; and July 5, one horse, \$250. If those four horses had been ordered in a lump they would have cost exactly \$1,000; but being divided in that way you got inside the limit? A. I don't remember that at all.

Q. You were in the board and in full swing on that date? A. I know; but I can't recollect those things.

Q. Here is October 11, one batch of two horses, amounting to \$400; one batch of three horses, amounting to \$725; and one batch of one horse, amounting to \$250, a total of \$1,375? A. I can't recall that at all.

Q. You do not recollect that? A. No.

Q. On January 9, there is one batch of four horses, \$250, \$250, \$250, and \$225 for the fourth horse, which just throws the amount to \$975, just inside the limit. Do you remember that?

The Chairman—That was January of this year?

Mr. Moss—January of this year?

A. Well, I presume that is correct, the way they were purchasing horses when I went into the board.

Q. Here are ninety horses, all within that six months, at the general price of \$250 apiece, and generally in lots of about \$750?

A. I didn't think we bought so many.

The following is a copy of the paper produced by Commissioner York, and offered in evidence by Mr. Moss:

STATEMENT CONCERNING HORSES PURCHASED FOR  
THE POLICE DEPARTMENT.

1898.

Date.	From whom purchased.	No.	Prices.				Amount.
May 24.	M. McDonald ..	3	\$250	\$250	\$225		\$725
24.	do. ..	3	250	250	225		725
24.	do. ..	3	250	250	225		725
June 11.	do. ..	3	250	250	225		725
13.	do. ..	3	250	250	225		725
July 5.	do. ..	3	250	250	250		750
5.	do. ..	1	250				250
Aug. 22.	do. ..	3	250	250	225		725
Sept. 20.	do. ..	4	150	150	150	150	600
Oct. 11.	do. ..	2	200	200			400
11.	do. ..	3	250	250	225		725
11.	do. ..	1	250				250
Nov. 15.	do. ..	3	250	250	250		750
28.	do. ..	3	250	250	250		750
Dec. 2.	do. ..	3	250	250	225		725
7.	do. ..	3	250	250	250		750

1899.

Jan. 5.	do. ..	3	250	250	250		750
9.	do. ..	4	250	250	250	225	975
10.	do. ..	3	250	250	250		750
11.	do. ..	3	250	250	250		750
Feb. 12.	do. ..	3	250	250	225		725
24.	do. ..	3	250	250	225		725
27.	do. ..	3	250	250	250		750

1899.

Date.	From whom purchased.	No.	Prices.			Amount.
March 5.	do.	.. 3	\$250	\$250	\$250	\$750
10.	do.	.. 3	250	250	250	750
17.	do.	.. 3	250	250	250	750
21.	do.	.. 3	250	250	250	750
27.	do.	.. 3	250	250	225	725
April 3.	do.	.. 3	250	250	250	750
22.	do.	.. 3	250	250	225	725
22.	do.	.. 3	250	250	225	725
		<hr/> 90				<hr/> \$21,650



THURSDAY, *May 18, 1899*—10.30 A. M.

Committee met pursuant to adjournment.

Present: Mr. Mazet, chairman; Messrs. Costello, Wilson, Hoffman and Boland.

JACOB HESS, recalled as a witness, being duly sworn, and examined by Mr. Moss, testified as follows:

About the 13th of March I was not presented with a diamond badge of office. I had no presentation of any commissioner's badge the 13th of March; at no time. I wasn't a commissioner then; held no office. I have not since that time. My cigars are not on sale in the Cairo cafe. They have not been at any time. I am in the retail business myself; not in the wholesale business. I have not sold, or caused to be sold, cigars to the Cairo cafe. I am interested in the Anchor Brewing Company, at Dobbs Ferry.

Q. Does your brewing company sell beer to any of the resorts in the Tenderloin? A. Not that I know of.

Q. Are you acquainted with the places that are using that beer? A. No, sir. I pay no attention to the brewery at all; haven't for years.

Q. It is sold in the city of New York, is it not? A. Yes; somewhere.

Q. Are you merely a stockholder in the company? A. I am a partner in the company; yes, sir.

Q. A partner or a stockholder, which? A. Stockholder.

Q. Do you know of any efforts that have been made to sell that beer in the city of New York? A. No, sir; not by me.

Q. Do you know of any efforts that have been made to sell that beer in the city of New York? A. We have an agent here. His name is Ward. His office is at Thirty-eighth street and Eleventh avenue. I am acquainted with Samuel Myers, the tailor. I have known him for some time. I have long been acquainted with Captain Price and with Chief Devery.

Q. You esteem them both your personal friends? A. I regard them as acquaintances.

Q. You have taken considerable interest in sporting matters in the city during your life here, haven't you? A. Never.

Q. Not in horse racing? A. Never.

Q. Or in fights, pugilistic fights? A. Never.

Q. You have a considerable acquaintance with sporting people, haven't you? Meeting them frequently at the Hotel Metropole and about that neighborhood? A. I don't know whether they are sporting men or not. I meet lots of people; I am civil to anybody I come in contact with. I do not believe that it is well to allow a certain amount of latitude in a city like this for pool selling. I think they should be absolutely closed up. I do not think there should be some latitude allowed in the matter of selling liquor on Sunday. I think that should be absolutely stopped. I do not think there should be any latitude allowed in the matter of resorts for dissolute women. I think they should be absolutely closed. I believe that it is the duty of a police official to enforce the law according to his oath of office, and not to moralize upon them. I believe that is the duty of policemen and police officials; leaving the morals of the law to the legislature. I have listened to the testimony concerning poolrooms, given yesterday. I believe that it is the duty of the police to find the violations of law and to suppress them; to arrest the offenders and prosecute them and convict them, if possible. And that applies to every form of law violation, no matter what kind. I am in favor of enforcing the law in every instance. I consider it to be my duty as a police commissioner to compel the chief of police, who is under my administration and jurisdiction, to enforce the law.

Q. Do you believe that a police official in command of your force of 7,000 men, with detectives, and all the appliances of money, means and knowledge; do you believe it is possible for such a chief of police to get such evidence as was shown by the witnesses yesterday? A. I believe it is his duty to see that the captains of precincts do.

Q. You believe it is his duty to see that that is done, and if it is not done, it comes back upon him as the responsible head, does it not? A. It ought to.

Q. And it is his business to know whether they are doing their duty, isn't it? A. It is a very difficult thing to find out; he has so many things to attend to.

Q. But in so an important a matter as that of poolrooms, where there are large numbers of them and people are able to go in them, and they are doing a tremendous business, and that is all indicated in the daily papers specifically, you would think he ought to be able to know whether his subordinates are closing them or not, wouldn't you? A. I think he tries to do that the best he can, so far as I know.

Q. But supposing he does not succeed. Do you look upon that as an indication of efficiency or inefficiency? A. Neglect.

Q. What should be done with a chief of police who is guilty of neglect of duty? A. Well, I don't know.

Q. You don't know? A. He had to rely upon the captains of precincts, who are acquainted with the immediate neighborhood.

Q. You are one of the commissioners, and the law declares that the board of police is the head of the police department. You hold him responsible just as he holds the others responsible, and if you do not discharge your duty—do not secure an enforcement of the law by your subordinates, are you not then responsible? A. Partly so.

Q. And how can you discharge your duty and relieve your responsibility if you retain in office a chief of police who, for any reason, is unable to make head against this gigantic crime in our city? A. Well, as I understand it, we have held the police captains responsible; they give reports every week of the alleged gambling houses and alleged poolrooms in the city of New York—weekly reports. We have rather been looking after the captains.

Q. Now, it is a fact, commissioner, that these captains do not only report to the chief of police, but they report to the board of police, don't they? A. They do.

Q. They give to the board of police, of which you are a member, an exact copy of the weekly reports that they give to the chief? A. Certainly.

Q. So that, while you only look to the chief as the responsible man, you also have an intimate knowledge of what the captains are doing because of their reports to you; isn't that so? A. That is true.

Q. And that is also true as to the inspectors of each district who command the captains, isn't it? A. Yes, sir.

Q. Now then, you have seen in the newspapers going on for months, these accusations of open poolrooms, haven't you? A. Yes.

Q. And have you paid special attention to the reports of the captains on that subject? A. Yes.

Q. And you have noticed, have you not, Mr. Commissioner, that your captains have invariably reported that there were no violations of law in their precincts? A. Correct.

Q. It is correct, then, Mr. Commissioner, that right straight along, when these accusations are in the newspapers, and have been, your captains have been reporting to you that there were no violations of law in their precincts; that is true, isn't it? A. It is.

Q. Don't you think, Mr. Commissioner, it is a strange thing that while definite accusations were being made, your captains were reporting that their precincts were clear of all disorder; don't you think that strange? A. I never knew until yesterday there were so many poolrooms in the city of New York.

Q. I know, but you have said you read the allegations in the papers, many of which I called the attention of the committee to? A. General allegations. Not designating certain buildings, but speaking generally—a wide open New York—poolrooms running.

Q. Speaking generally, wide open, not only as to poolrooms, but as to gambling houses and green goods and disorderly houses and everything of that kind. The papers have been full of it, haven't they, for months past? A. No; I don't think so.

Q. There have been many such reports in the newspapers? A. Yes; general reports.

Q. Upon this whole phase of wide open things, don't it seem to you strange that your captains should continually report that their precincts were free of crime and vice? Did it ever seem strange to you? A. I do not go heavy on the newspaper reports. And when a question of that kind came to us, a newspaper report, we usually paid little attention to it in the board, and it was referred to the chief, and the chief in turn, I suppose, referred it to the captain of the precinct.

Q. But it never created a sufficient impression upon you when these captains were reporting to the commissioners, their precincts



free from crime and vice, to cause a personal investigation, did it? A. It did cause a little suspicion.

Q. Then you did have suspicion that things were not right, did you? A. I did.

Q. And that captains were lying in their reports? A. Yes.

Q. You had that suspicion? A. Yes.

Q. Now, what captains, or what precincts, did you have under suspicion? A. Oh, a number of them; we have a great many letters come to us—anonymous letters, and letters signed by citizens designating places as poolrooms. They are usually referred to the chief and he in turn refers them to the captains. And then we get a report from the captains saying he investigated and found there was no poolrooms in that place.

Q. Did you have suspicions that even then the captains did not report the true facts? A. I had confidence in the captains.

Q. You have? A. I did have.

Q. Have you now? A. No.

Q. You have not. Now what precincts have you not confidence in the captains? A. Wherever there is a poolroom running.

Q. What are those precincts? A. They are according to the testimony given yesterday, if it is true, they seem to be in every precinct in the city.

Q. You sat here as a spectator listening to the testimony; did it produce a serious impression of probability in your mind, of truth? A. It did.

Q. It seemed to you to be truthful testimony, didn't it? A. Yes, sir.

Q. Backed up by cards, paraphernalia, money and everything that was necessary to establish the truth of the accusations? A. It impressed me very much.

Q. Then, upon that testimony, and the impression which it made upon you as a commissioner, isn't it clear in your mind that the reports that you have been receiving from captains were not true? A. I have not looked at any of the reports lately.

Q. You say the reports have come in invariably that the precincts were free of vice and crime? A. This evidence given here yesterday was recent.

Q. I am talking about the reports of the captains upon which you have relied, you say; you say generally and continually, these

reports were that their precincts were free of vice and crime and you relied on them? A. Yes.

Q. And now you believe that in many precincts wherever this testimony struck, the reports were not true? A. I believe, if it could be found out by private detectives, they ought to be able to find it out.

Q. Certainly; with all the resources of the police department it ought to be possible for the department to do it; isn't that so? A. The department cannot get into poolrooms, the same as you did—I mean your witnesses.

Q. The department has a contingent fund which they can use to send private persons into poolrooms, hasn't it? A. We have a contingent fund.

Q. A contingent fund that can be used for the employment of private persons and has been so used? A. Usually used in the detective bureau.

Q. Don't you think, Mr. Commissioner, that out of 7,000 men you could find a number that you could dress in citizens clothes who would make just as presentable an appearance at a poolroom as any person you have seen here on the stand? A. That has been invariably done; frequently done.

Q. How do you know it has been done? A. By the chief.

Q. He told you so? A. No; I saw it done. Thirty or forty people a night sent out.

Q. Do you mean to say thirty or forty people a night have been sent out to find these poolroom and gambling houses? A. And other violations.

Q. And they did not find them? A. They did.

Q. What has been done? A. They go to the courts and are discharged as a general thing by the courts.

Q. Poolroom keepers? A. I don't know whether they were poolroom keepers or not; I didn't keep track of them. I know for weeks and weeks they have been sent out on excise cases, street walking and violation of poolrooms—not so much poolrooms, because that was in the night; I do know that the chief has sent out his select men from different precincts; he has sent them out.

Q. You know men have been sent out from different precincts to arrest street walkers? A. Yes, sir.

Q. And don't you know that numbers of street walkers so arrested have been held in the police court? A. Yes.

Q. Fined? A. Yes.

Q. Some of them sent to the Island? A. Yes, sir.

Q. And don't you know that large numbers of excise cases have been heard by the police authorities and that in the criminal courts in this building, certain judges have been occupied a month at a time trying these cases, sometimes cases of dead defendants; you know that, don't you? A. Yes.

Q. Then your police officers have found some kind of people, and you know, too, that large numbers of these street walkers have got bailed out, don't you? A. Yes.

Q. And a great many of them bailed out by Mr. Nelson? A. I don't know Mr. Nelson; I have not the pleasure of his acquaintance.

Q. If they can arrest street walkers and make excise arrests, how is it, do you suppose, that they cannot get poolroom cases? A. I suppose poolroom cases are more difficult to detect.

Q. Did it impress you yesterday that it was difficult to get evidence against poolrooms at this time? A. No.

Q. It did not? A. No.

Q. Now, I ask you again—but before I ask that—you as a commissioner try police officers, don't you? A. Yes, sir.

Q. And I think this is your trial day? A. Not mine. This is Mr. Sexton's. I tried last Thursday.

Q. Mr. Sexton is trying police officers to-day, and you tried police officers last Thursday? A. Yes, sir.

Q. And you and your brother commissioners are the men who are to determine judicially whether police officers perform their duty and to dismiss them from the force if they neglect their duty to a sufficient extent to warrant that kind of punishment? A. Yes.

Q. You have the power to dismiss an inefficient, neglectful officer, haven't you? A. If proven.

Q. Have you had a single police captain on trial, or have you had a single police captain on trial charged with any neglect of duty since you have been commissioner? A. One.

Q. Who? A. Martens.

Q. Accused of failing to suppress policy shops? A. Yes, sir.

Q. When was Mr. Martens tried? A. I think about a month ago.

Q. A month ago; wasn't it more than that? A. Well, perhaps more.

Q. Two months ago? A. I don't remember; you may be right.

Q. Mr. Martens was in command of the Twenty-first precinct in Thirty-fifth street, wasn't he, at the time he was tried? A. Yes.

Q. And the matters brought up on his trial were of sufficient importance to transfer him to another precinct up in the upper part of the city; he was so transferred, wasn't he? A. He was transferred before he was tried.

Q. But while the charge was pending? A. Yes.

Q. Why haven't you decided that case, Mr. Commissioner? A. The president tried it, although it was tried by the full board and the president was the trial judge.

Q. Why haven't you decided that case? A. I don't know; the case has not been brought to the attention of the board, yes, full board.

Q. Hasn't been brought to the attention of the board yet? A. No, sir.

Q. And that was so serious a case as the trial of a police captain charged with so great a neglect of duty as failure to suppress policy shops; isn't that the kind of case that should be disposed of promptly for the good and efficiency of the force? A. Maybe. Cases of that kind I think we ought to have a chance to digest the evidence.

Q. How long does it take you to digest evidence? A. Well, the amount of business we have in our office you probably know.

Q. Do you ever get to your office before afternoon? A. I do.

Q. Very often? A. Very often.

Q. What time do you generally arrive at the office? A. I generally get there about one o'clock; twelve o'clock, or one o'clock.

Q. That is about the time your brother commissioners arrive, isn't it? A. Oh, no.

Q. Do they get there earlier? A. They get there earlier.

Q. With that exception, there have been no trials of police captains charged with neglect of duty? A. No.

Q. And there have been no charges against police captains of false reports, have there? A. No.



Q. After listening to the testimony concerning open poolrooms, does it not seem to you as police commissioner that there is in the very mildest way of expression, inefficiency in the department? A. In the captains; yes, sir.

Q. Why do you limit it to the captains? A. Because it is their duty to look after their precincts.

Q. Is it not equally the duty of the inspectors to look after their inspection districts? A. Yes.

Q. And does not the same charge of inefficiency apply to them? A. To a degree.

Q. Each inspector has a staff of officers attached to him for his own use, doesn't he? A. Yes.

Q. And he is required by the rules to go over his inspection district to see how the captains are attending to their duties; that is so, isn't it? A. Yes.

Q. He does not have to run a station house, does he? A. No.

Q. He does not have to post men, does he? A. No.

Q. He does not have any of the multitudinous detail labor that a captain has, but his work is restricted to that of overseeing the performance or non-performance of duty of the captains; is not that so? A. In his inspection district.

Q. Then does not the same charge of inefficiency apply to the inspectors that applied to the captains? A. To a lesser degree.

Q. Why do you think it is less; isn't it a greater degree? A. No; the territory is so much smaller.

Q. The territory is larger, but he hasn't anything else to do? A. The territory of the captain is smaller, and he ought to be more familiar with his precinct than the inspectors.

Q. The inspector's men are supposed to go all through the entire inspection district and locate every gambling house, pool-room and disorderly house, are they not? A. The inspector.

Q. The inspector's men; that is what they are given him for, isn't it? A. I presume that is the object.

Q. And to make arrests and complaints himself against law breakers which the captains do not arrest? A. Yes; that is his duty under the rules.

Q. Now then, Mr. Commissioner, the inspector having a larger district than the captain has more law breakers under his observation than the captain, and so isn't his chance of arresting somebody better than that of the captain? A. He hasn't so many men.

Q. They are not restricted to patrol duty; they are free lances, aren't they? A. Supposed to be.

Q. Now isn't the chief of police also responsible? A. Well, he is responsible if the violations are reported to him. The inspectors are supposed to be on his staff; they ought to report to him.

Q. The rules which your board have made which you have the power to amend and under which you are acting, do they not declare that the chief of police will be held responsible? A. Yes.

Q. For the enforcement of the law in the entire city? A. Yes.

Q. And the inspector will be held responsible for his district, is that so? A. Yes.

Q. The captain in his district. Now how do you hold a police official responsible? A. Give me that question again.

Q. How do you hold a police official responsible? A. By the board?

Q. Yes. How does the board hold a police official responsible; these officials we have mentioned? A. For the strict enforcement of the rules of government of the department and the law.

Q. I know; but what is your method of holding them responsible? A. Our method?

Q. Yes; what do you do? A. We require them to make reports to us daily.

Q. If you were running a business, say a brewing business, and you concluded that the business was in such shape as to indicate that the superintendent and the heads of various departments in it were not efficient, how would you hold them responsible; what would you do? A. I would call them to account.

Q. How? A. By trying to remedy their defects.

Q. How would you remedy their defects? A. I don't know; there are various ways of doing that. By dismissal in the first place.

Q. By dismissal in the first place? A. Yes, or by other ways; or admonishing admonition.

Q. Admonition might come first? A. Admonition might come first, and on failure to comply with it dismissal.

Q. If you found your business was absolutely neglected, that men that you had put in charge of the business and of a department were not doing that for which they were paid, and that a rival concern across the street because it had efficient men was doing all the business, what would you do? A. Well, I think I should dismiss them.

Q. You would dismiss them? A. Yes.

Q. Now then, Mr. Commissioner, you being a police commissioner, one of the head of the police department, finding that your chief and your captains, with the fortune of money which was at the disposal of the force and with all police belongings, by reason of inefficiency, neglect or whatever you call it, have been unable for months, while their attention has been directed to it, to make headway against the poolroom evil, and while you have sat here yourself and have seen that a private, a very small private agency has been able to do that which your police force have not been able to do, what do you think you ought to do as commissioners with those who are in charge of the police machinery under your supervision? A. I think they ought to be looked into.

Q. Haven't you been looking into them all the time? A. We have; yes.

Q. And you have asked them to attend to their duties, haven't you? A. Yes, sir.

Q. And they have sent you reports that are apparently untruthful reports? A. Apparently.

Q. And you have had it demonstrated under your very eyes that that which they have not been able to do, a private agency, a small number of persons on comparatively inexpensive procedure, have been able to do? A. Within a few weeks only.

Q. Within a few weeks only, yes, numbers of places found every day? A. Why didn't those men report to us?

Q. Oh! Why didn't Mr. Wood report to you? A. Yes, or you.

Q. Or I report to you? A. Or send us the names of the places.

Q. Send you the names. Well, unfortunately I can't answer you that question now. A. You need not answer.

Q. But, Mr. Commissioner, I will answer it to an extent. Do you remember that about a month ago Chief Devery was on the stand; did you follow the procedure enough to know that he was on the stand? A. Yes.

Q. And didn't you read in that testimony that a month ago while he was on the witness chair his attention was directed specifically to poolrooms mentioned in articles that were placed in his hand with numbers, streets and all details. Don't you remember that? A. I do.

Q. So that a month ago, with all the solemnity of this proceeding behind it, when your principal subordinate was in the chair, this matter was placed before him, and we even went so

far as to ask the head of the political organization dominant in the city to-day, what he would do about these things, and he expressed his opinion that they should be closed, and now you ask me why, during these weeks and days, we have not given you what we have found. How can you ask that, Mr. Commissioner? A. Well, it is a little futile, I know.

Q. Now, can you ask for any fairer treatment, Mr. Commissioner, than we have accorded to you, and to your police department, by indicating the place where we were to strike and giving you an opportunity to clean it up before we got there. Can you imagine anything fairer than that? A. That was very fair.

Q. It was very fair; names and places and details—what a comment on you and on your force, of absolute neglect—you ask why—yes, you say? Did you say yes? I saw you nod your head yes. You ask why these reports were not made to you. Did you notice that reports were read and testimony was given about places running and going up to the very day before yesterday, and would it surprise you to know that I have in my possession testimony of poolrooms running and betting being made even yesterday, and would it surprise you to know that poolrooms are running to-day in these very places, and that the testimony is within my command to show it? A. Shocking.

Q. Shocking? And on the strength of what you have seen you don't doubt it, do you? A. No.

Q. Now, I ask you, Mr. Commissioner, you being the head, or one of the heads of this force, in the situation that you find yourself to-day, you and your fellow members, what do you conceive to be your duty with regard to the chief and the other subordinate officials of the department? A. I might start an investigation.

Q. Hasn't it been investigated; haven't we done your work for you? A. Well, so far as I am concerned you have aided me considerably.

Q. We have demonstrated the thing so you are bound to see; you cannot shut your eyes to it, can you? A. I don't believe you can suppress gambling entirely.

Q. No, but you can do something? A. We can bring it down to a minimum.

Q. You do not call what we have proved a minimum, do you? A. Not exactly. A large maximum.



Q. Mr. Commissioner, you voted to retire a chief of police against whom there was not a charge of any kind, as you have here testified? A. Yes.

Q. Why should you not vote to retire a chief who is now under your command and against whom you have the power to act, who has brought this reproach and shame upon the department which you represent, on your own statement? A. You ask me why?

Q. Yes. A. Well, I don't know that I am obliged to give you my views in regard to what I intend to do.

Q. I suppose not, but is there any reason why you should not state your views of what you intend to do; is there any reason? A. Yes.

Q. Do you intend to do something? A. I do. Or we do.

Q. Have you consulted with your associates, so as to be able to say "we do?" No, I am not.

Q. Then, how can you say "we do?" A. Well, I do.

Q. You do? A. Yes.

Q. Mr. Hess, I may say that I was much affected by the frankness, the openness, with which you testified yesterday. In our judgment, it is much better to testify to the truth when everybody knows the truth.

Mr. Hess, I was saying, in our judgment, it is much better for a man to admit at once the inevitable than to fence and dodge and go before the people as one who is not telling the whole truth. I believe that you have commended yourself considerably to the people by having been absolutely frank and truthful.

The Witness—I always was truthful.

Mr. Moss—And for that reason I am not going to press the question any harder right here about what you intend to do. Being an official, I can conceive—we believe that you have a right to retain in your own minds your future steps, but have we not put it before you very clearly, Mr. Commissioner, your own responsibility, your own power, and the position in which you stand as the head of the department discredited, upon your own statement, by the testimony which you have heard. It is a fair thing, isn't it? A. Yes.

Q. When you voted to retire Mr. McCullagh and voted to put in his place Mr. Devery, you did not at that time have any idea that by so doing you would be compelled to stand as the head of a department which shamefully neglected the enforcement of the laws, did you? You did not expect to be put in that position, did you? A. I won't admit that.

Q. Well, if you don't admit that, I do not press that question, but I will put it in this form: When you did that act, you never expected to be put in the position that you are now in, in having to consider your own reputation in dealing with your subordinates, did you? A. Well, that will be proven later on. I have got to be satisfied myself that these things are so.

Q. Have you not already said that you have been satisfied? A. I am satisfied if these statements are true that these witnesses give—which I believe they are—there has been a shameful neglect of duty somewhere. That is what I stated.

Q. That is what I mean. You did not expect that the act you performed in turning out McCullagh and putting in Devery, to have to become responsible for such a condition of affairs, did you? A. Why don't you put it at the time of my appointment?

Q. At the time of your appointment, you didn't expect it, did you? A. I didn't expect there would be any trouble in the board. I wanted to avoid trouble.

Q. You did not expect to have to deal with any such thing as this, did you? A. I wanted to avoid trouble.

Q. Was that what you meant yesterday when you said you were sorry you had accepted the appointment? A. No; not at all.

Q. Were you the treasurer of the board? A. Yes.

Q. And the treasurer of the police pension fund as well? A. Yes, sir.

Q. You had to give bonds in both of those offices, didn't you? A. Yes.

Q. One hundred thousand dollars as treasurer of the pension fund and \$20,000 as treasurer of the general fund? A. Yes.

Q. From whom did you secure the bonds? A. From the Fidelity Company.

Q. From the United States Fidelity and Guarantee Company?

A. Yes, sir. I first went to the United States Fidelity Company of Maryland and they refused to take me. Then I had to go to the other place.

Q. Let's see about that. You went to the United States—which company was that? A. Fidelity—Mr. Platt's company.

Q. We may as well call these companies by the names they are generally known. You went there and they refused to give you a bond? A. Yes, sir.

Q. Why? A. I don't know.

Q. Who did you see? A. I didn't see anybody.

Q. How do you know? A. I sent a man to him.

Q. You sent a man to the company? A. Yes, sir.

Q. And what reason was given for refusing? A. At first they said they would be glad to take me, and I suppose they heard from somewhere; they made inquiries, I suppose—not as to my responsibility.

Q. You don't think it was on account of your responsibility? A. Not at all; because I had private bonds offered; plenty of them.

Q. You did have private bonds offered? A. Yes, sir; a number of them. But I did not want to put myself under obligation to anybody and they refused to take me, and then I had to go to the other company.

Q. And you were bonded in the other company, the Freedman Company? A. Yes, sir.

Q. For \$120,000? A. Yes, sir.

Q. What rate did you pay? A. That I decline to tell.

Q. Why? A. Because Mr. Freedman is an old friend of mine and made a reduction.

Q. That, of course, is a proper reason. You say Mr. Freedman was an old friend of yours, and made a reduction in the charge? A. Yes, sir.

Q. When you were first treasurer, in what bank was your money deposited? A. The Seaboard National Bank.

Q. What bank is it now deposited in? A. Same bank.

Q. Did you contemplate a change of bank at one time? A. Never; not in that deposit. Not with that fund.

Q. What other fund was there? A. Well, the pension fund.

Q. Where was that deposited? A. That was in the Bowery National Bank.

Q. Where is it now? A. There still.

Q. Still in the Bowery. Did you contemplate a change in that fund? A. Yes, sir.

Q. What bank were you going to send it to? A. The Garfield National Bank; I did that.

Q. You did send it to the Garfield? A. I sent half of it; I thought it was too much money to be in one bank for a fund of that kind.

Q. How much was the fund? A. Well, we have a balance there sometimes of a hundred thousand dollars.

Q. Do you think \$100,000 is too much to have in a good bank? A. No.

Q. It was your duty to have these funds in a good bank, wasn't it? A. Yes, sir.

Q. And you have no idea of saying here that \$100,000 is too much to have in a good bank, do you? A. No.

Q. Now why did you divide that fund; who asked you to do it, Mr. Hess. I am asking you in perfect confidence and frankness? A. Do what?

Q. Who asked you to divide that fund, put a part in one bank and a part in the other? A. The board.

Q. The board did; what reason was assigned for it? A. None at all; they simply said there was too much money there; there was some rumor about the Bowery National Bank.

Q. If there was a rumor about the Bowery National Bank why didn't you take it all out? A. It was a false rumor; I knew that.

Q. If you knew it was a false rumor why did you take any out? A. Because I wanted to oblige a friend of mine by the name of Gelsner.

Q. Give him some of the money? A. Yes, sir.

Q. Was there really a resolution in the board asking you to change the deposit? A. I suggested a resolution.

Q. You suggested a resolution. I understood you a moment ago that the inception of this thing was in the board? A. The board was obliged to act on it. I could not do it on my own account.

Q. It was at your suggestion, then? A. Yes, sir.

Q. And because Mr. Gelsner asked for a favor? A. Yes, sir.



Q. Was Mr. Gelsner the only person that asked you? A. Yes, sir.

Q. Was he the only person that spoke to you about it? A. I think Mr. Sexton spoke to me about it.

Q. Didn't Mr. Sexton speak to you about it first? A. I don't remember.

Q. It is possible that he did? A. May be.

Q. Mr. Sexton deposits himself in Mr. Gelsner's bank, doesn't he? A. I don't know.

Q. Don't you know he does his personal business at that bank? A. No, I did not.

The Chairman—Is Mr. Gelsner president of that bank?

Mr. Moss—President of the Garfield Bank.

Q. Isn't it a fact, Mr. Hess, that the bank holding these police moneys, that in those banks the employees are all bonded in Mr. Freedman's United States Fidelity and Guarantee Company? A. In what bank?

Q. The banks holding your police money; the Garfield Bank, the Bowery National Bank and Seaboard Bank? A. I don't know anything about it.

Q. You don't know anything about it, but haven't you understood that those banks were to patronize Mr. Freedman's company, the company of your friend Freedman? A. I never heard of it.

Q. You never heard of it in any shape? A. No shape. The clerks of the bank?

Q. Yes; the employees of the banks. You know bank employees have to give bonds, don't you? A. Yes, I do.

Q. And that these bonds amount to a considerable figure in the large banks; you know that, don't you? A. Yes, sir.

Q. As a business man? A. Yes, sir.

Q. And have you never heard that the patronizing of that bond company had something to do with the retaining of deposits of the police moneys? A. No, sir; I never heard of it. I never heard of it.

The Witness—Mr. Moss, will you permit me: That question of horses, there is the actual purchase and the dates they were purchased; you see that makes a difference; the report you had yes-

terday was the date the bills came in; there are the actual purchases (producing paper).

Q. Then you wish to offer this as an explanatory document?

A. Yes, sir; as an explanatory document.

Mr. Moss—I will ask that this statement is spread upon the minutes, and I will read the dates simply; there are no prices given: 1898, January 14th, three horses; April 13th, three; May 6th, three; May 11th, three; May 16th, three; May 25th, three; May 27th, three; June 2d, three; June 15th, three; June 27th, three; July 1st, three; July 5th, three; July 7th, three; July 20th, three; July 26th, four wagon horses; November 3d, three horses; November 14th, three; November 18th, three; November 23d, three; December 22d, three; December 29th, three; December 30th, three. 1899, February 1st, three; February 6th, three; February 14th, three; February 17th, three; February 24th, three; March 3d, three; March 9th, three; March 13th, three; March 20th, three; March 28th, three; April 3d, three; April 10th, three; April 26th, three.

The following is a copy:

POLICE DEPARTMENT OF THE CITY OF NEW YORK,

300 MULBERRY STREET, NEW YORK.

*Horses Ordered Purchased by the Police Board.*

1898.

- Jan. 14. Three horses by chairman committee on repairs and supplies.
- April 13. Three horses by chairman committee on repairs and supplies.
- May 6. Three horses by chairman committee on repairs and supplies.
- May 11. Three horses by chairman committee on repairs and supplies.
- May 16. Three horses by chief of police.
- May 25. Three horses by chairman committee on repairs and supplies.
- May 27. Three horses by chairman committee on repairs and supplies.

1898.

- June 2. Three horses by chairman committee on repairs and supplies.
- June 15. Three horses by chairman committee on repairs and supplies.
- June 27. Three horses by chairman committee on repairs and supplies.
- July 1. Three horses by chairman committee on repairs and supplies.
- July 5. Three horses by chairman committee on repairs and supplies.
- July 7. Three horses by chairman committee on repairs and supplies.
- July 20. Three horses by chairman committee on repairs and supplies.
- July 26. Four wagon horses by the chief of police.
- Nov. 3. Three horses by chairman committee on repairs and supplies.
- Nov. 14. Three horses by chief of police.
- Nov. 18. Three horses by chief of police.
- Nov. 23. Three horses by chief of police.
- Dec. 22. Three horses by chief of police.
- Dec. 29. Three horses by chief of police.
- Dec. 30. Three horses by chief of police.

1899.

- Feb. 1. Three horses by chief of police.
- Feb. 6. Three horses by chief of police.
- Feb. 14. Three horses by chief of police.
- Feb. 17. Three horses by chief of police.
- Feb. 24. Three horses by chief of police.
- March 3. Three horses by chief of police.
- March 9. Three horses by chief of police.
- March 13. Three horses by chief of police.
- March 20. Three horses by chief of police.
- March 28. Three horses by chief of police.
- April 3. Three horses by chief of police.
- April 19. Three horses by chief of police.
- April 26. Three horses by chief of police.

By Mr. O'Sullivan:

Q. Is there anything you wish to say in relation to the matter you have just offered Mr. Moss; anything further in explanation?

A. Nothing at all; it was fully explained yesterday.

Q. These were the dates of the purchases? A. The dates of the purchases; yes, sir.

JAMES P. KEATING, called as a witness, being duly sworn and examined by Mr. Moss, testified as follows:

I am the commissioner of highways. I first knew that I was going to be appointed on the first of January, 1898. It had first been mentioned between me and anybody on that day. I was at Lakewood. That was prior to first of January; I then had some expectations of being made commissioner of something. I talked with some of the people in my locality about the appointment in my district where I reside. I was myself the leader of my district.

Q. Then those you talked with in your district were persons under you? A. I don't know that I can put it in that light, because I don't know how to class some of them. Some think they are higher than I am; I think they are. I had command of the district. And in a technical sense, they were under me, in a measure. I don't know that I talked with them for the purpose of strengthening my candidacy. I mentioned it to them; I don't know why I did. I did not ever speak to the mayor about it. I think some of the men in the district might. I don't know; I can't swear that they did. The mayor knew me very well. I didn't have any occasion to go to the mayor; the mayor knew all about me. I was clerk of the city court while he was presiding justice. There were plenty of persons desirous of getting appointments. And persons just as good as I.

Q. And the mayor having the appointment, it was necessary for the candidate to be named to him, wasn't it, for selection? A. Very likely I was by somebody.

Q. Why didn't you go to him yourself? A. There was a little delicacy on my part about advocating my own cause; I can advocate others, but not my own. I was at Lakewood. I was hoping



for some position. It wasn't committed to anybody to see the mayor. No, sir; not to my knowledge. We talked it generally in the club and in my headquarters. I don't know who was seen in my behalf to get my name upon the list. I did not know a list had to be made up. I have no idea that the mayor made any list, or anybody else. I don't know his way of doing business. I did not speak with Mr. Carroll about it. No one that I know of spoke to Mr. Carroll about it. Not to my knowledge.

Q. Did you make any contribution to the political fund that year? A. I generally assist my district every year.

Q. I understand. But did you make any that year? A. I cannot recollect that. I don't recollect, not at this time. I didn't make a payment of money in connection with my appointment; not at all. I didn't make a payment of money in anticipation of my appointment. I did not make more than my usual contribution to the election expenses that year. I did make a contribution to the political expenses of my organization at the last election; I can't recollect now how much.

Q. Was it not four per cent. of your year's salary? A. No, sir; I don't know.

Q. Wasn't it as much as that? A. I cannot exactly tell what it was now.

Q. Was it less than that? A. I tell you I can't tell. My salary is \$7,500 a year. I can't tell whether or not I contributed less than four per cent. of my salary. I don't know that it was the general thing for city employees at the last election to contribute four per cent. of their yearly salary. I am not in a position to answer whether city employees do contribute very generally; I don't know. I was leader of my district. I don't know what they contributed in my district. The treasurer of the organization received the money in my district; Mr.—I think Mr. Searing or Mr. Wand. I have no knowledge of how my name got into the hands of the mayor. I am a member of the Democratic club. I am not there quite frequently. I know Mr. Croker. I did not ever mention the matter of my appointment to him, nor was there any talk with him about my appointment; not so far as I was concerned. I don't know whether any friend of mine spoke to Mr. Croker. I know Mr. Croker is a partner of the firm

of Peter F. Meyer & Co. Since this investigation started; I never knew it before; I read it in the paper.

Q. Didn't you know before this investigation started that Mr. Croker was a partner in the real estate business with Mr. Meyer?

A. Did I understand you to say Mr. Meyer or Mr. Freedman?

Q. I meant Mr. Meyer, if I said Mr. Freedman. A. I heard he was interested with Mr. Meyer. I thought you meant Mr. Freedman. I want to correct that.

Q. I see here, Mr. Keating, that your department has auction sales at times? A. Yes, sir.

Q. I see that on the 19th of April you announced to sell at public auction, by your department, of buildings or parts of buildings, within and about Twenty-third street, between Eighty-sixth street and Benson avenue, borough of Brooklyn. How many pieces of property were in that lot? A. There might have been four or five, as near as I can recollect; I can't tell.

Q. And I notice that you announced that this sale would take place under the direction of Messrs. Peter F. Meyer & Company?

A. I did.

Q. Have you given all of your auction sales to Peter F. Meyer & Company? A. I have.

Q. Knowing, of course, that Mr. Croker was a partner? A. I do not know that I knew it at the time. I am mixed up as between this company that Mr. Freedman is in and this one, I think. I did not know that he was mixed up in either of them until after I read it in the papers through this investigation. I want to correct that and have it right on the record to start with. At any rate I gave these sales to Peter F. Meyer & Company, all of them. I knew at that time Peter F. Meyer was a dock commissioner. I came to give all of my auction sales to Peter F. Meyer & Company, because he was the only auctioneer that I knew. I suppose there are many real estate auctioneers in New York. I think there are other auctioneers who are members of our organization in New York city; there must be.

Q. So then, through your repeatedly, through your so long giving your sales to Mr. Meyer, a member of the organization, you were giving them to him especially because you knew him, isn't that so? A. No. Because he was an old auctioneer and

understood his business better than any new man I could get. I did it in the interest of the city. No one spoke to me before I gave him the auction sales. I did not send for him. I had a chief clerk; the chief clerk brought this to my notice that the sales were to take place and said, "you can name an auctioneer and you want to get some competent man." I says, "who are they?" After thinking a minute—Peter Meyer & Company; Peter Meyer is an auctioneer; write him a note and put his name in the sale.

Q. You knew that the partner of Mr. Meyer, Mr. Croker, was the leader of the organization? A. I did not know he was a partner of Mr. Croker.

Q. You knew he was the leader of the organization? A. Yes, sir; he is to-day.

Q. He is to-day? A. Yes, sir. I really say I didn't know he had any interest in Mr. Meyer's business; nor the insurance company either.

Q. I notice also a notice of a sale of property in the borough of the Bronx, to take place on the 8th of May, this one was; the other was the 4th of May; with a very large number of parcels? A. Very large. That sale occupied a number of days. I can't remember how many lots there were in it, how many parcels; there were quite a number. Nearly 300; yes, sir; I guess there was more. Over 200 parcels, such as fences, rails and so forth; in separate lots.

Q. And the custom of auctioneers is to charge by the lot, by the parcel that they put up? A. No, sir; I cannot recall how that was now; so much percentage, I think.

Q. You employed the auctioneer; don't you know what you paid him? A. Yes, sir; but I cannot tell from memory now.

Q. I notice that in this case, Mr. Keating, there is not in the terms of sale the usual provision that the purchaser should pay the auctioneer. You know that is the usual thing in the sale of real estate, don't you; that the purchaser should pay the auctioneer's fee? A. It may be in partition sales and foreclosure sales, but not in condemnation sales. No, sir; this was condemned by the city; this was all city property. In that case the city paid Meyer & Company their compensation for conducting that sale. I did not make a contract with Mr. Meyer. I did not

have any understanding with him about what he would charge. It was understood he would charge what he had charged for all the other pieces that he sold. The understanding was he would charge what he charged for the previous sales; the ones we had in Brooklyn.

Q. Those were the sales that were advertised for the 4th of May? A. I thought you were speaking about those in the Bronx.

Q. We will speak of the 4th of May. What contract did you have with him for his charges of the sale of May 4th, the Brooklyn sale? A. There is a regulation fee for that. I can't recollect what it is. It isn't fifteen dollars for each parcel. It was about three or five per cent. of the amount realized, and that was paid for by the city. If we paid fifteen dollars for each of those parcels, we only got a dollar for some of them and fifty cents for others; part of a stoop being worth fifty cents we couldn't take fifteen dollars out of that. I cannot tell from memory how much I did pay Mr. Meyer for the sale of May the 4th. The sale of May 8th is not closed yet; not returned. I don't know how much I am going to pay him. I don't know how much was realized. No report has been made to the office; it commenced on May 8th and the sale continued a week, and this is only the 18th. I don't know whether this was three or five per cent. I can't tell from memory now; I have it at the office.

The Chairman—Mr. Commissioner, do I understand you to say you have had any sale of real estate or merely the buildings upon land owned by the city? A. Owned by the city.

Q. So you did not have any sales of the fee in the property? A. No, sir; only the buildings that were condemned; and parts of buildings. Perhaps two feet on one building; six feet on another; six inches on some buildings.

By Mr. Moss:

I don't think I have had any sales other than these. These two are the only ones. I think I had another one of one building that was partly on the street in South Brooklyn some time ago. Whatever sales I have as a city official I have given to that firm, as far as I can recollect.



Q. And so far as you know now you intend to continue, don't you? A. I do not.

Q. You do not; why not? A. I can get some other man; it is not necessary for me to continue. I cannot answer that under oath that I intend to continue. I may change my mind to-morrow.

Q. You might change your mind, but you have no present intention? A. Yes, I have; I might and might not; I can't say. I did give a bond as a city official. I don't know the name of the company. It was Mr. Freedman's company. Ten thousand dollars. Other employes in my office did the same thing. I don't know that it was the same company. I have a list of it in my pocket here. I got it hurriedly. You subpoenaed me to produce the bonds. I have not got them in my possession, and I had a list of them made. (Witness produces paper.) I will read it, with your permission, Mr. Chairman. These bonds are not in my possession. They are filed in the comptroller's office.

Q. I will state that this list shows eleven employes all bonded in the United States Fidelity & Guarantee Company, of Baltimore. That is Mr. Freedman's company, is it? A. I don't know the name of Mr. Freedman's company. I know I am bonded myself in Mr. Freedman's company. About the others I don't know. This I have shown you states my bond is in the United States Fidelity & Guarantee Company. I came to bond in that company; I knew Mr. Freedman for some time. He did not speak to me about it. I did not tell him I would bond in that company when I would be elected. He got no orders from me; not at that time. I disremember now what rate was charged. I can't tell whether it was one per cent.

Q. Was it as much as one per cent? A. I answered the first question; that ought to cover the other.

Q. I understand, but was it less than one per cent? A. I don't know; I said I didn't recollect.

Q. When did you make your contract for the bond? A. Some time in January, 1898.

Q. Were all of the employes in your office friends of Mr. Freedman as you were? A. No, sir; I don't know.

Q. How does it come that every employee in your office is bonded in that company? A. I don't know, sir.

Q. Did you know Mr. Croker was interested in that company?

A. I did not.

Mr. Hoffman—I desire to make a request at this time that a subpoena issued to Henry B. Platt, son of Senator Platt, and the vice-president of the so-called Platt Surety Company, to produce the books of that company, and that he be subpoenaed as a witness to testify concerning the bonds given by that company for contractors on city work and city officials. I want to say that the evidence has shown that the Platt company has given surety for contractors doing city work and also given security for persons holding officials' positions under the city government.

Mr. Moss—I am glad, Mr. Chairman, to have the assemblyman state what is in his mind. I will relieve his mind at once. (Calls) Mr. Coler.

BIRD S. COLER, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am the comptroller of this city. I did pay a contribution to my political organization prior to my election. The amount of it was \$5,000 to New York county and \$5,000 to Kings county. It was made probably three weeks after the time of my nomination. Two or three weeks after. That was the entire amount to the organization, yes, sir. I spent two or three thousand dollars outside. But that is the amount I paid to the organization, \$10,000, \$5,000 to each. I paid \$5,000 to John C. Sheehan and \$5,000 to Arthur C. Salmon. John C. Sheehan, of New York. Salmon was the treasurer at that time of Kings county. I am a Brooklyn man. Mr. Sheehan was recognized as the leader. I wanted to contribute and I suggested to him that I was not a poor man and I was willing to give whatever was fair, and he asked me what I thought was fair, and I said I thought, between the two, probably \$15,000 would be fair; and he said no, that was too much; that he thought that less would do. And I said if he thought that I would give New York five and Brooklyn five. I believe I did make a contribution at the last election. It was not at a certain rate, four per cent. I think I gave a thousand dollars or two

thousand dollars. Off and on I gave some money as it went on. I did not know that the employees of my department were contributing four per cent. of their salaries to that election fund. I know nothing of the kind. I never heard of it. I made that contribution at the last election. To Kings county entirely. I gave nothing to New York. As comptroller I have sales of real estate, city real estate. I have sold a considerable amount of city real estate. One sale was a large sale. The rest small.

Q. I notice one sale for April 27, consisting of leases—quite a number of leases; quite a number of separate parcels; some nineteen parcels. Do you remember to whom you gave that sale?

A. I followed the custom of Mr. Fitch and gave them to Mr. Meyer. Mr. Meyer had been the auctioneer for the comptroller's office for a great many years, and I saw no reason to change, and sent to the same firm. I did know that he was a dock commissioner during the administration in which I was an officer. I knew he was a dock commissioner at the time I gave him that sale. I suppose so.

Q. Did you also know that his partner was the chief of the organization of which you are an officer? A. I am not familiar with Mr. Meyer's or anybody else's partnership arrangements.

Q. But did you not know that? A. By general report, yes, sir.

Q. Where was that other sale?

The Witness—The large sale you refer to?

Mr. Moss—The old Erie property, I suppose.

Q. What was that? A. That was a block of buildings owned by the city, formerly rented by the Erie Company; and then later to R. J. Deane & Company.

Q. That was a sale advertised for the 4th of May, a block in the Fifth ward in the city of New York, bounded by West street, Duane street, Washington street and Reade street. That is what you refer to? A. That is what I suppose you refer to, yes, sir.

Q. Is that what you referred to? A. As the large sale, yes, sir. I gave that also to Meyer & Company. There has been no other sale of property except sales of leases. I have given all the sales of leases to Meyer & Company. Yes, sir, everything. Every sale that has come under my control as the comptroller of the city

has been given to Peter F. Meyer & Company. As comptroller of the city I have charge of a great many of the bonds of city employees. I have to approve a great many. And I also have control of the bonds of city contractors. I was subpoenaed to produce a statement of the official bonds. This is the statement.

Q. Then you were written to and it was stated in the letter that if you cared to you might bring with you a list of the contractors' bonds? A. No, Mr. Moss; it was not stated that way.

Q. How was it stated? A. It was stated that they had heard that I had a list prepared. I had had no list prepared. And if it was not too much trouble, or something of that kind, why, I would bring it.

Q. So as to have them ready for the same day as to which this subpoena related? A. Yes, sir. That came from the committee.

Q. It was a matter of considerable detail work to make out this list of contractors, was it not? A. Not a great deal; no.

Q. It amounted to fifteen or more millions of dollars? A. It is done by the contract clerk, and his books are in pretty good shape.

Q. Are these three sheets the list of contractors' bonds prepared under your direction? A. I believe they are; yes, sir.

Mr. Moss—These are not very long, and I will read them. "Contract bonds, not marked off to May 15th, guaranteed by the following companies":

Q. Mr. Coler, that means all the contract bonds now in force, does it not? A. Let me see it. (After looking.) Yes, sir; that does.

Q. With whatever date they were originally given? A. Yes, sir; that is a summary, that one.

Mr. Moss—"American Surety Company, \$6,580,592; Fidelity and Deposit Company of Maryland, \$6,466,442." (That is the Platt Company, I think, Mr. Chairman.) U. S. Fidelity and Guarantee Company, \$2,835,209. (That is the Croker Company, I believe.) "City Trust, Safe Deposit and Surety Company, \$3,548,500; American Bonding and Trust Company, \$902,850; National Surety Company, \$400,000; Fidelity and Casualty Company, \$341,600; U. S. Guarantee Company, \$888,450; Ætna Insurance Company, \$2,500."



Q. The American Surety Company is the pioneer surety company is it not? Practically the first large surety company? A. It is the largest.

Q. And the oldest? A. I am not familiar with when it was organized.

Q. And the company next mentioned, the Fidelity and Deposit Company of Maryland, has been doing business in the city of New York for quite a number of years? A. Several years. I can't tell you what date those began.

Q. And the United States Fidelity and Guarantee Company has been doing business in the city of New York a little less than two years, has it not? A. I believe so.

Q. So that of those three companies the United States Fidelity and Guarantee Company, is much younger than the others? A. Yes, sir.

Q. The second list is as follows: "The records of the department of finance from January 1, 1898, to December 31, 1898"—this is the first year of your term? A. Yes, sir.

Mr. Moss—(continuing.) "Show that bonds furnished on contracts registered during that period of time aggregate \$14,437,857.23. These bonds were undertaken by personal bondsmen to the amount of \$4,013,119.35, and by surety companies in the sum of \$10,424,737.88. The liability of the various companies on these bonds are as follows: The Fidelity and Deposit Company of Maryland, \$3,096,824.50; The American Surety Company of New York, \$2,882,367.98; The United States Fidelity and Guaranty Company, \$2,274,189.40; The City Trust, Safe Deposit and Surety Company of Philadelphia, 160 Broadway, New York, \$1,277,269; National Surety Company, 346 Broadway, New York, \$486,891; American Bonding and Trust Company of Baltimore City, \$403,696; The Aetna Indemnity Company, Hartford, Conn., 62 and 64 William street, \$2,500; Lawyers' Surety Company, \$1,000. My function as to those bonds is the approving or rejecting of the sureties. As to their sufficiency. I have nothing to do with the-suggesting of sureties; absolutely no; no, sir. When a bidding is advertised, generally that calls that sureties must be furnished at the time a man submits his bid, and then when a bid is accepted it comes to

me for approval or rejection of the sureties, as put in at the time of the bidding.

Mr. Moss—This third statement says: “The records of the department of finance from January 1, 1899, to May 13, 1899, show that the bonds given on contracts registered during that period of time aggregate \$5,952,410.20.” That is, since the 1st of January, this year. “Personal bonds were furnished to the amount of \$941,338.48.” Various surety companies assumed liability on these contracts as follows:

The United States Fidelity and Guaranty Company.	\$1,670,204	45
The Fidelity and Deposit Company of Maryland...	988,528	37
The City Trust Safe Deposit and Surety Company of Philadelphia .....	920,498	40
The American Bonding and Trust Company of.....	609,359	00
National Surety .....	540,469	00
The American Surety Company of New York.....	282,012	50

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A. These are the bonds furnished by the contractors and builders, of streets, public buildings, improvements of all characters of a public nature. Everything that I have anything to do with. Mostly by builders and contractors.

Mr. Moss—The significant feature of these reports is the increase, the constant ratio of increase, of the new company. They start out with a heavy liability in the older companies, but the progression of figures shows the increase in the third of those companies, which was the newest of all. I sent for these statements because of what has been said in the committee room here and because manifestly it was the right and proper thing to answer all inquiries of that kind.

Mr. Hoffman.—Let me say that there are other bondsmen here. There are bonds in the Platt Surety Company and that Company should be called upon to make explanations in regard to them. Bonds of the Freedman company have been inquired into, of all kinds. There has been the fullest detail on that subject, and all bonds inquired into. There are other bonds, such as bonds given by contractors which have been given by the Platt

company, excise bonds, and a lot of other bonds, which have not been explained; and I beg again to respectfully request the committee that Mr. Platt, the secretary of that company, be called, and the vice-president, and put upon the witness stand, in order that we may ascertain the exact status of their business, just the same as we have examined into the status of Mr. Freedman's business and financial standing.

Mr. Moss—The matter of excise bonds has not been gone into at all as to either company. That is a State matter. It is not within the purview of this resolution, and I have not seen it to be thus far material to the lines of inquiry that are being followed; but there is no reason under the sun why those figures should not be obtained, if the committee think it is important to do it, at the proper time.

Mr. Hoffman—I believe the officers of that company should be placed upon the witness stand, and interrogated just the same as the other witnesses—not statements sent by him, but that he be interrogated, the same as other witnesses. Mr. Platt is no better than anybody else.

Mr. Moss—There are no statements that have been received from anybody and placed on the record in this case, and nobody shall be permitted—

Mr. Hoffman—You deem it a proper course to take a statement from the Platt Company, but you want to call and examine the witnesses in regard to the other company.

Mr. Moss—You misunderstood me.

Mr. Hoffman—I do not misunderstand you. There should be sworn statements as to the Platt Company, the same as other witnesses have sworn in regard to Mr. Freedman's company.

Mr. Moss—Perhaps it is right to discuss this a moment. The chairman knows full well that anything that is material to this inquiry will be produced.

Mr. Hoffman—You stated a moment ago that the excise bonds had nothing to do with it; that it was a State matter. I say it is a local matter, in view of the fact that sixty-six and two-thirds per cent. of the moneys realized for excise licenses is taken by the State and thirty-three and one-third 'per cent. taken by the city. That certainly is as local a matter as any matter that has yet been inquired into, and whether the saloonkeepers have been forced, since the passage of that act, to go to the Platt Company

and get a bond is a matter that the community should know—if that is so. I again respectfully request that Mr. Platt be called.

Mr. Moss—There is no necessity of any heat or argument upon this matter.

Mr. Hoffman—There is no heat or argument. I have made other requests which this committee have not complied with. I have done so at the meetings of the committee, and I do this now publicly, so that there can be no mistake about it.

Mr. Moss—You will find that the counsel, as well as yourself, will produce everything and anything, and every witness that is material to this inquiry.

Mr. Hoffman—Counsel has a very serious objection to inquiring into anything as to Republicans. Democratic officials have been called here, and when any request or demand has been made to call those to the witness stand who can tell this committee a great deal, and give it a great deal of information, which the people of the city of New York desire, the committee has not seen fit, nor has the counsel seen fit, to do it.

Mr. Moss—The very last witness interrogated was a Republican official.

The Chairman—I do not think this discussion is necessary. I understand, as to the conferences we have had, that the course we have mapped out has been followed regardless of any clamor or any considerations outside of the orderly conduct of this investigation.

Mr. Hoffman—I assume that this question will be taken up after this committee has adjourned sine die, as to the Platt Company.

The Chairman—You can assume anything you please.

Mr. Hoffman—I have a right to assume it from the action of the committee in other matters. This committee has taken the form of a partisan investigation.

The Chairman—You will proceed, Mr. Moss.

Q. Now, Mr. Coler, you have produced these statements of official bonds filed in the comptroller's office. These are servants of the city, are they? These are the bonds of the servants of the city, on this statement? A. Yes, sir.

Mr. Moss—This is such a long statement that I will not read it in full, but will summarize it.



“Statement of official bonds, filed in the comptroller’s office, from December 31st, 1897, to May 13th, 1899.”

Bond of the United States Fidelity and Guaranty Company. The first bondsman is Isaac Fromme, register of the county of New York, \$20,000.

The second, Thomas J. Dunn, sheriff of the county of New York, \$100,000.

Mr. Moss—Patrick Keenan, chamberlain, \$75,000. Charles F. Murphy, commissioner of docks, \$5,000. John J. Scannell, treasurer, fire department, \$100,000. John Purcell, commissioner of jurors, \$5,000, and other city officials in the same company to the number of 294 persons, with an aggregate liability of \$2,405,000. Those bonds were the bonds of the United States Fidelity and Guaranty Company.

Then follow the bonds of seven persons in the Fidelity and Deposit Company of Maryland, amounting to \$35,000, namely:

Charles B. Coates, police clerk, third district, Brooklyn, \$5,000.

Jared J. Chambers, police clerk, first district, Brooklyn, \$5,000.

Cornelius J. Teehan, police clerk, second district, Brooklyn, \$5,000.

Frank J. Gardner, police clerk, eighth district, Brooklyn, \$5,000.

Philip Block, police clerk, fifth district, city magistrate’s court, Manhattan, \$5,000.

Eugene H. Healey, police clerk, sixth district, Manhattan, \$5,000.

Frederick T. Perry, police clerk, magistrate’s court, sixth district, Brooklyn, \$5,000.

Then there are two bonds in the American Bonding and Trust Company of Baltimore city, amounting to \$7,500.

Two bonds in the United States Guaranty Company, amounting to \$5,500.

One bond in the American Surety Company, amounting to \$5,000.

One bond in the City Trust, Safe Deposit and Surety Company of Philadelphia, amounting to \$5,000.

Twenty bonds by individual sureties, amounting to \$424,000, among which are:

John Whalen, Corporation Counsel, \$5,000.

Patrick Keenan, Chamberlain, \$225,000, he having given \$75,000 in the first named company, a total of \$300,000.

Thomas L. Hamilton, Treasurer, Police Pension Fund, \$100,000.  
 Thomas L. Hamilton, Treasurer, police board, \$20,000.  
 The others are in amounts of \$5,000 and less.

The following is a copy of the paper last referred to:

STATEMENT OF OFFICIAL BONDS FILED IN THE COMPTROLLER'S OFFICE FROM DECEMBER 31, 1897, to May 13, 1899.

*United States Fidelity and Guaranty Co., Surety.*

When filed.	Date of bond.	Names of officers and title.	Penalty of bond.
1897.	1897.		
Dec.	31. Dec.	31. Isaac Fromme, register, county of New York.....	\$20,000
	31.	30. Thomas J. Dunn, sheriff, county of New York.....	100,000
1898.	1898.		
Jan.	3. Jan.	3. Patrick Keenan, chamberlain...	75,000
	3.	1. Charles F. Murphy, commissioner of docks, treasurer.....	5,000
	1897.		
	3. Dec.	29. John J. Scannell, treasurer, fire department .....	100,000
	1898.		
	3. Jan.	1. John Purcell, commissioner of jurors .....	5,000
	4.	3. Edward J. O'Flynn, assistant deputy collector of assessments and arrears, Brooklyn.	15,000
		Michael T. Daly, deputy collector .....	10,000
		David E. Austen, receiver of taxes .....	25,000
	4.	4. William McKinny, auditor of accounts, Brooklyn .....	5,000
	4.	1. Michael O'Keeffe, deputy collector assessments and arrears, Brooklyn .....	15,000
		James B. Bouck, deputy receiver taxes, Brooklyn.....	15,000
	4.	3. John J. Fetherston, deputy receiver taxes, Richmond.....	15,000

When filed. 1898.	Date of bond. 1897.	Names of officers and title.	Penalty of bond.
Jan.	4. Dec.	31. William Sohmer, county clerk..	\$25,000
	1898.		
	4. Jan.	1. John J. McDonough, deputy receiver taxes, Manhattan.....	15,000
	4.	3. Richard G. Farley, chief clerk, mayor's office .....	1,000
		George Brand, deputy collector assessments and arrears, Richmond .....	15,000
	5.	1. Walter H. Holt, auditor, Richmond .....	5,000
	5.	3. Charles Rushmore, assistant deputy receiver taxes, Brooklyn .....	15,000
	5.	5. Francis R. Clair, auditor, Queens. ....	5,000
	6.	4. Frederick J. Brettman, third auditor accounts, Manhattan..	5,000
	6.	6. Frederick Bleckwenn, deputy receiver taxes, Queens.....	15,000
		Edward Gilon, collector assessments and arrears.....	25,000
		John F. Rogers, deputy collector assessments and arrears, Queens .....	15,000
	7.	7. James H. Maloney, deputy commissioner highways .....	5,000
		Abraham Greenwald, assistant deputy collector assessments and arrears, Richmond.....	10,000
	8.	8. Bernard McDonough, assistant deputy collector assessments and arrears, Richmond.....	10,000
		Reinhard Waltenmein, assistant deputy collector assessments and arrears, Richmond.....	10,000
		Matthew J. Cahill, assistant deputy collector assessments and arrears, Richmond.....	10,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Jan.	8. Jan.	8. Jacob Herrel, assistant deputy collector assessment and arrears, Richmond .....	\$10,000
		Edwin S. Twyford, deputy auditor, Richmond .....	5,000
		Michael Cahill, assistant deputy, collector assessments and arrears, Richmond .....	10,000
10.		7. Henry P. Morrison, deputy commissioner and chief engineer highways, Richmond .....	5,000
		Edward F. Walsh, clerk Washington and West Washington markets .....	2,000
10.		10. William N. Shannon, deputy commissioner of highways...	5,000
		James P. Keating, commissioner of highways .....	10,000
		Thomas R. Farrell, deputy commissioner highways .....	5,000
		John P. Madden, deputy commissioner highways, Queens..	5,000
		James F. O'Brien, assistant deputy collector assessments and arrears, Queens.....	10,000
11.		11. George Durland, assistant deputy collector assessments and arrears, Queens.....	10,000
13.		13. William A. Butler, supervisor, City Record .....	5,000
13.		12. William G. Byrne, water register .....	15,000
14.		14. Andrew McTigue, assistant deputy collector assessments and arrears, Queens .....	10,000
		Edward J. Connell, auditor, Bronx .....	5,000



When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Jan. 18.	Jan. 17.	John J. Moore, assistant cashier bureau water register . . . . .	\$15,000
19.	19.	Jesse Brown, Jr., chief clerk to assistant deputy collector as- sessments and arrears, Queens	5,000
		Mathew J. Golden, deputy com- missioner sewers, Queens. . . . .	5,000
20.	20.	Alexander Dumas, cashier, bu- reau for collection assess- ments and arrears, Queens. . .	6,000
22.	22.	Benj. C. Lockwood, clerk, bureau collection assessments and ar- rears, Queens . . . . .	5,000
		Bernard H. Fee, clerk, bureau collection assessments and ar- rears, Queens . . . . .	5,000
26.	10.	James Moffett, deputy commis- sioner water supply, Brooklyn.	5,000
26.	11.	Thomas J. Mulligan, deputy com- missioner water supply, Bronx . . . . .	5,000
26.	26.	Harry A. York, deputy auditor, Manhattan . . . . .	5,000
27.	27.	Edward L. Stryker, assistant clerk, municipal court, second district, Brooklyn . . . . .	5,000
		James Vane, commissioner sew- ers . . . . .	10,000
28.	28.	Daniel B. Phillips, deputy audi- tor, Brooklyn . . . . .	5,000
29.	29.	John J. White, dockmaster. . . . .	3,000
		William Brennan, deputy com- missioner sewers, Brooklyn. . .	5,000
31.	28.	Eugene H. Healey, police clerk, city magistrate's court. . . . .	5,000
31.	29.	Peter Tiernan, clerk municipal court, Richmond . . . . .	5,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Jan.	31. Jan.	29. John R. Powers, dockmaster...	\$3,000
		Patrick Hennessy, dockmaster..	3,000
		Peter Woolley, dockmaster.....	3,000
		Matthew F. Donohue, deputy commissioner sewers, Man- hattan . . . . .	5,000
	31.	31. Francis F. Leman, clerk, munici- pal court, first district, Rich- mond . . . . .	5,000
		Henry Walter, Jr., clerk, munici- pal court, second district, Queens . . . . .	5,000
		Thos. F. Kennedy, clerk, first municipal district court, Queens . . . . .	5,000
		James C. Spencer, assistant to corporation counsel, bureau of collection of arrears of per- sonal taxes . . . . .	10,000
Feb.	1. Feb.	1. Edwin F. Kennedy, dockmaster.	3,000
		James J. Sullivan, stock and bond clerk . . . . .	3,000
		Ira B. Betz, cashier, bureau re- ceiver taxes, Manhattan.....	10,000
Feb.	2. Feb.	2. Henry C. Burke, deputy auditor, Queens . . . . .	5,000
		Benj. H. Hewlett, police clerk, Queens . . . . .	5,000
		Victor Heimberger, dockmaster.	3,000
	3.	1. William C. Carey, police clerk, keeper of records, second divi- sion, Richmond . . . . .	5,000
		Michael Brennan, police clerk, city court, second district, Richmond . . . . .	5,000
	3.	3. George E. England, police clerk, second division, Brooklyn....	5,000

When filed. 1898.	Date of bond. 1898.*	Names of officers and title.	Penalty of bond.
Feb.	4. Feb.	4. Thomas I. Conerty, police clerk, second division, Queens.....	\$5,000
		Charles F. Franklin, police clerk, fourth district, Brooklyn.....	5,000
	7.	7. Frederick T. Perry, police clerk, second division, Brooklyn....	5,000
	9.	9. George W. Damon, clerk, munic- ipal court, third district, Queens.....	5,000
10.		8. John B. McGoldrick, clerk, city court.....	10,000
10.		10. Paton Noble, clerk, city magis- trate's court, second division, Queens.....	5,000
11.		11. Joseph Keller, cashier, bureau licenses.....	2,000
		George W. Brown, Jr., deputy chief, bureau licenses.....	2,000
14.		11. David J. Roche, chief, bureau licenses.....	5,000
15.		15. Henry S. Moran, clerk, court special sessions, 'second dis- trict, Queens.....	5,000
16.		16. Thomas F. Geary, dockmaster..	3,000
		L. H. Harrison, dockmaster.....	3,000
		Thomas J. Byrne, deputy com- missioner sewers, Bronx.....	5,000
17.		17. Moses Oppenheimer, fourth au- ditor of accounts, Manhattan.	5,000
		Thomas Lusk, dockmaster.....	3,000
		James A. Dunne, assistant clerk, municipal court, first district, Brooklyn.....	5,000
		Max A. Cramer, cashier, depart- ment sewers.....	1,500
18.		18. Rufus Darrow, Jr., dockmaster.	3,000
18.		17. Joseph E. McKenna, cashier, department water supply, Queens.....	5,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Feb. 18.	Jan. 4.	Joseph Fitch, deputy commissioner water supply, Queens..	\$5,000
18. Feb.	18.	Thomas E. Booth, dockmaster..	3,000
19.	19.	Martin Mauer, dockmaster.....	3,000
21.	11.	Joseph M. S. Millette, paymaster's clerk .....	5,000
21.	21.	Robert E. L. Howe, deputy tax commissioner, Brooklyn .....	10,000
		James P. Farrell, deputy tax commissioner, Brooklyn .....	10,000
		Eben D. Newman, deputy tax commissioner, Brooklyn .....	10,000
		Isaac S. Forster, deputy tax commissioner, Brooklyn .....	10,000
		George J. Craigen, deputy tax commissioner, Brooklyn .....	10,000
		Thomas F. Larkin, deputy tax commissioner, Brooklyn .....	10,000
		John Schliemann, deputy tax commissioner, Brooklyn .....	10,000
		W. J. Matthews, dockmaster....	3,000
		George H. Lindsay, deputy tax commissioner, Brooklyn .....	10,000
		William S. Pickard, deputy tax commissioner, Brooklyn .....	10,000
		Nicholas W. Morrell, paymaster's clerk .....	5,000
		Joseph H. McGowan, deputy tax commissioner, Brooklyn .....	10,000
		Clinton DeWitt, deputy tax commissioner, Brooklyn .....	10,000
		Michael Ryan, deputy tax commissioner .....	10,000
23.	23.	Thomas S. Prior, city paymaster's second clerk .....	5,000
		Anthony C. Dozeville, city paymaster's fourth clerk .....	5,000
		Edward G. Schermerhorn, assistant cashier, receiver of taxes.	5,000



When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Feb.	23. Feb.	23. Abraham I. Kantnowitz, messenger city paymaster's office....	\$2,000
		Patrick S. Keely, deputy tax commissioner, Brooklyn .....	10,000
		William R. Dyer, clerk, city paymaster .....	5,000
		Philip A. Kinkel, deputy tax commissioner, Brooklyn .....	10,000
		Eugene Conkling, city paymaster's third clerk.....	5,000
24.	21.	William J. Jennett, collector, Wallabout market .....	2,000
	24.	Lewis W. Sandiforth, paymaster's clerk .....	5,000
		Edward H. McGurk, deputy collector city revenue, etc.....	2,000
		John Clark, deputy collector city revenue .....	2,000
		Ansel E. Parkhurst, second cashier, receiver taxes .....	5,000
		Joseph Dunn, deputy collector city revenue .....	2,000
		James J. Fleming, dockmaster..	3,000
		Alexander Meakim, clerk of markets .....	2,000
		Robert T. McNamara, deputy collector city revenue .....	2,000
		Daniel Dillon, deputy collector city revenue .....	2,000
25.	25.	G. T. Springsteed, assistant cashier, department finance .....	3,000
		Eugene F. McLoughlin, cashier bureau collector assessments and arrears .....	10,000
		John H. Rapp, deputy collector city revenue .....	2,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Feb. 26.	Feb. 19.	David O'Brien, collector city revenue and superintendent markets . . . . .	\$15,000
		26. James G. Shand, dockmaster...	3,000
	28.	28. Chas. P. Chipp, assistant collector bureaus assessments and arrears . . . . .	5,000
March 2.	March 2.	David J. Van Winkle, deputy city paymaster . . . . .	25,000
	3.	3. Frank L. Bacon, clerk, municipal court, first district . . . . .	5,000
		Stephen McFarland, assistant clerk, municipal court, first district . . . . .	5,000
	8.	8. Theodore A. Snedeker, paymaster's clerk . . . . .	5,000
		Wm. P. Mechan, assistant clerk, municipal court, sixth district.	5,000
	9.	9. Edward A. McQuade, assistant clerk, municipal court, seventh district . . . . .	5,000
	11.	11. Chas. A. Alden, acting treasurer department public charities, boroughs Manhattan and Bronx, and acting trustee of court funds, said department, etc. . . . .	3,000
		John M. Fox, warden, workhouse, Blackwell's island ....	5,000
	12.	12. William H. Burke, secretary department docks and ferries...	3,000
	14.	14. James Seaton, clerk court special sessions, second division, Richmond . . . . .	5,000
		Wm. J. Kennedy, clerk municipal court, ninth district.....	5,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
March 14.	March 14.	Martin J. McInerney, collector, department docks and ferries.	\$3,000
15.	15.	Bernard McQuade, cashier, office of commissioner of highways.	2,000
		Joseph Burke, deputy cashier, third ward, department water supply, Queens .....	2,500
26.	15.	Edward H. Beiderlinden, cashier third ward, deputy water sup- ply, Queens .....	2,500
16.	16.	Samuel Barry, deputy collector city revenue .....	2,000
		John Keleher, deputy collector assessments, Manhattan .....	15,000
		Jeremiah W. Walsh, clerk to city paymaster .....	5,000
		Walter G. Keech, assistant superintendent markets .....	5,000
17.	17.	Wm. H. Schott, deputy auditor, Bronx .....	5,000
29.	19.	Pierce J. Dunn, deputy tax com- missioner, Richmond .....	10,000
23.	16.	Edward H. McGurk, cashier and chief clerk, collection city revenue and water works....	5,000
23.	23.	Theodore B. Jones, cashier, city clerk's, Manhattan .....	2,000
28.	28.	Patrick J. Ryan, assistant clerk, municipal court, ninth dis- trict, Manhattan .....	5,000
29.	19.	Andrew Fetherston, deputy tax commissioner, Richmond ....	10,000
		Henry T. Metcalf, deputy tax commissioner, Richmond ....	10,000
30.	30.	Jacob C. Wand, superintendent street opening, paving and re- paving, Manhattan .....	3,000
April 1.	April 1.	John J. Scannell, treasurer, re- lief fund, fire department....	20,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
April	1. April	1. Thomas F. Smith, clerk, city court . . . . .	\$10,000
	2. March	8. John Simpson, superintendent streets and roads, Manhattan.	2,000
	11.	11. John H. Vaughan, messenger, office deputy receiver taxes, Brooklyn . . . . .	5,000
		Henry Woram, cashier office, receiver taxes, Brooklyn . . . . .	10,000
		James E. Scott, ticket clerk, office deputy receiver taxes, Brooklyn . . . . .	5,000
	13.	13. Geo. W. Walters, stamp clerk, office deputy receiver taxes, Brooklyn . . . . .	5,000
	14.	14. John H. Timmerman, city paymaster . . . . .	50,000
	19.	19. Jefferson Groub, purveyor, office aqueduct commissioners . . . .	2,500
	20. March	2. James E. Bannon, cashier, department highways, Brooklyn.	2,000
	20. April	20. Francis J. Nolan, paymaster's clerk, Brooklyn . . . . .	5,000
		Thomas J. Dunne, paymaster's clerk, Brooklyn . . . . .	5,000
		Wm. H. Leffingwell, Paymaster's clerk, Brooklyn . . . .	5,000
	25.	25. John P. Hilly, deputy collector, city revenue . . . . .	2,000
		John A. Hamilton, deputy city paymaster . . . . .	25,000
May	5. May	5. Jeremiah F. Devlin, security deposit clerk, dep't finance . . . .	5,000
	9.	9. Robert Gere, collector, dep't docks and ferries . . . . .	3,000
	13.	13. Eugene J. Cumisky, deputy auditor, Manhattan . . . . .	5,000
	31.	31. Edward F. Condon, deputy tax commissioner, Manhattan . . . .	10,000



When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
May	31. May	31. Joseph D. Cremin, deputy tax commissioner, Manhattan ...	\$10,000
		Byran O'Hara, deputy tax commissioner, Manhattan ...	10,000
		James F. Moore, deputy tax commissioner, Manhattan....	10,000
		Walter A. Murray, Deputy tax commissioner, Manhattan....	10,000
		Edward P. Carroll, deputy tax commissioner, Manhattan....	10,000
		John H. Conway, deputy tax commissioner, Manhattan....	10,000
		Daniel Engelhard, deputy tax commissioner, Manhattan....	10,000
June	1. June	1. John Wesley Smith, deputy tax commissioner, Manhattan....	10,000
		Jacob Hess, treasurer board trustees police pension fund.....	100,000
		Jacob Hess, treasurer police board .....	20,000
		James O'Connell, deputy tax commissioner, Manhattan....	10,000
		Edward P. Cringle, deputy tax commissioner, Manhattan....	10,000
	2.	2. William Blumers, deputy tax commissioner, Manhattan....	10,000
		Peter J. Kelly, deputy tax commissioner, Manhattan....	10,000
		Wm. L. Cunningham, deputy tax commissioner, Manhattan....	10,000
		Herman Schumacher, deputy tax commissioner, Manhattan....	10,000
	4.	4. Victor F. Kavanagh, deputy tax commissioner, Manhattan....	10,000
	6.	6. David L. Bodley, deputy tax commissioner, Manhattan....	10,000
	6.	2. Albert Loening, deputy tax commissioner, Manhattan....	10,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
June	6. June	6. John W. A. Shaw, deputy tax commissioner, Manhattan, ...	\$10,000
		Richard A. Homeyer, deputy tax commissioner, Manhattan....	10,000
		Thomas Walsh, deputy tax commissioner, Manhattan....	10,000
	17.	15. Geo. E. Glendenning, cashier, bureau licenses, Brooklyn....	2,000
	18.	18. Wm. H. Jordan, deputy chief, bureau licenses, Brooklyn....	2,000
	22.	22. Anthony Eickhoff, examiner of accounts, fire department....	5,000
		Jas. H. Southworth, deputy auditor accounts, Manhattan.	5,000
	28.	28. Clarence J. Ramsey, deputy commissioner, Manhattan....	10,000
		Gerard Bancker, dockmaster...	3,000
		John F. Tracey, deputy tax commissioner, Manhattan....	10,000
		Thomas J. Ford, deputy tax commissioner, Manhattan....	10,000
		Alexander Rosenthal, deputy tax commissioner, Manhattan....	10,000
		Charles H. Greenfield, deputy tax commissioner, Manhattan....	10,000
	30.	30. John F. Mahoney, deputy collector city revenue.....	2,000
July	1. July	1. John T. Birmingham, disbursing clerk .....	5,000
	5.	5. Robert Humphrey, assistant clerk, municipal court, first district, Richmond.....	5,000
		Wm. J. Browne, assistant clerk municipal court, second district, Richmond.....	5,000
	9.	9. P. F. Donald, deputy tax commissioner, Manhattan....	10,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
July	9. July	9. Michael J. Langan, deputy tax commissioner, Manhattan, ...	\$10,000
		Chas. E. Connolly, deputy tax commissioner, Manhattan....	10,000
		Frank A. Uihlein, deputy tax commissioner, Manhattan....	10,000
	11.	11. Henry A. Perry, deputy tax commissioner, Manhattan....	10,000
	12.	12. Thomas J. Hayden, deputy tax commissioner, Manhattan....	10,000
	20.	19. Michael F. Hayes, cashier, department highways, Brooklyn.	2,000
	20.	20. James M. McNamara, deputy tax commissioner, Brooklyn .....	10,000
	21.	21. Theodore A. Madden, deputy tax commissioner, Brooklyn .....	10,000
		John Dunne, deputy tax commissioner, Brooklyn .....	10,000
		John Schliemann, deputy tax commissioner, Brooklyn .....	10,000
		Lee J. Mills, deputy tax commissioner, Brooklyn .....	10,000
	22.	22. David B. Hutton, deputy tax commissioner, Brooklyn .....	10,000
Aug.	5. Aug.	5. Stephen J. Madigan, assistant cashier, department water supply .....	2,000
	10.	10. Frederick Smith, deputy auditor, Manhattan .....	5,000
		Chris. E. Nooney, first assistant cashier, tax office, Bronx.....	5,000
	11.	9. John B. Underhill, deputy receiver taxes, Bronx.....	15,000
	16.	16. Wm. J. Colihan, assistant cashier, receiver taxes.....	5,000
	24.	24. R. H. Williams, deputy tax commissioner, Queens .....	10,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Aug. 30.	Aug. 30.	Allen J. McBarron, deputy collector, city revenue, Brooklyn.	\$2,000
Sept. 1.	Sept. 1.	Ross F. Keogh, acting chief clerk, mayor's office.....	1,000
12.	12.	Stephen A. Nugent, assistant deputy receiver of taxes, Bronx.	5,000
		George Lydon, assistant deputy collector assessments and arrears, Bronx.....	10,000
		James F. Kellow, second cashier, collection assessments and arrears, Bronx.....	5,000
		James F. Donnelly, cashier, bureau assessments and arrears, Bronx.....	10,000
		John Kelly, deputy collector assessments and arrears, Bronx.	15,000
		John David Barry, third cashier, receiver taxes, Bronx.....	5,000
14.	15.	John F. Johnson, assistant cashier, bureau assessments and arrears, Bronx.....	5,000
16.	15.	Henry H. A. Ronner, second cashier, bureau collection taxes, Bronx.....	5,000
16.	16.	Francis A. Schilling, cashier bureau collection taxes, Bronx	10,000
21.	21.	William H. Longhran, assistant deputy receiver taxes, Manhattan .....	5,000
26.	26.	Chas. J. Decker, messenger, paymaster's office and auditing bureau .....	5,000
		James Cunningham, assistant cashier, receiver taxes, Manhattan .....	5,000



When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Sept. 26.	Sept. 26.	William A. Richter, assistant cashier, receiver taxes, Manhattan . . . . .	\$5,000
	30.	30. Herman B. Van Tronk, assistant paymaster's clerk . . . . .	5,000
Oct.	1. Oct.	1. William H. Longhran, second deputy receiver taxes, Manhattan . . . . .	5,000
		Patrick H. Lennon, bank messenger, bureau collector taxes, Bronx . . . . .	1,000
		Chas. V. Adee, Jr., assistant cashier, bureau collector taxes, Manhattan . . . . .	5,000
		William H. Fennell, messenger, paymaster's office and auditing bureau . . . . .	5,000
	4.	4. Charles Cass, bank messenger, bureau collector taxes, Manhattan . . . . .	1,000
	5.	5. Edgar E. Schiff, security deposit clerk . . . . .	5,000
	14.	14. James E. Stanford, deputy collector assessments and arrears, Bronx . . . . .	15,000
	18.	17. John J. Carey, assistant cashier, bureau collector taxes, Bronx.	5,000
	21.	21. Chas. Blankenhorn, paymaster's clerk . . . . .	5,000
	25.	25. Wm. R. Haughey, Jr., third assistant cashier, bureau collector taxes, Bronx . . . . .	5,000
Nov.	3. Nov.	3. Thos. A. Burke, messenger, paymaster's office and auditing bureau . . . . .	5,000
	5. Oct.	12. Joseph F. Carey, assistant cashier, water supply, Brooklyn . . . . .	5,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Nov.	21. Nov.	21. Wm. P. McClunn, paymaster's clerk . . . . .	\$5,000
	25.	17. John J. Moran, paymaster's clerk . . . . .	5,000
Dec.	2. Dec.	1. Henry W. Speight, collector rents market stands and fees from wagons . . . . .	2,000
1899.	1899.		
Jan.	2. Jan.	1. Theodore Anerhakn, messenger, bureau collector assessments and arrears, Manhattan. . . . .	5,000
	2.	1. William Rasquin, Jr., deputy commissioner water supply, Queens . . . . .	5,000
	3.	3. John F. Curry, paymaster's clerk . . . . .	5,000
		Frank J. Butler, collector department docks and ferries. . . . .	3,000
	4.	4. Walter G. Bryne, paymaster's clerk . . . . .	5,000
	3.	5. Edward E. Berrigan, clerk, paymaster's office . . . . .	5,000
	6.	6. Thomas J. Cronin, paymaster's clerk . . . . .	5,000
	7.	7. John Londrigan, paymaster's clerk . . . . .	5,000
	11.	11. Richard W. O'Connor, bank messenger, bureau collector assessments and arrears, Bronx. . . . .	5,000
	16.	12. John J. Dalton, assistant cashier, department water supply, Manhattan . . . . .	2,000
Feb.	2. Feb.	2. John P. Kenny, deputy auditor of accounts . . . . .	5,000
March	1. March	1. Matthew S. Tully, deputy tax receiver, Richmond . . . . .	15,000
	6.	4. John L. M. Allen, chief clerk, office commissioner accounts. . . . .	1,000

When filed. 1899.	Date of bond. 1899.	Names of officers and title.	Penalty of bond.
March 25.	March 25.	Edgar J. Levey, deputy comp- troller . . . . .	\$10,000
27.	27.	Wm. J. Grant, cashier, depart- ment sewers . . . . .	10,000
		John A. Walsh, bank messenger, bureau receiver taxes . . . . .	1,000
		William B. Calvert, assistant superintendent markets, Man- hattan . . . . .	5,000
April 1.	April 1.	George M. Fischer, second assist- ant cashier receiver taxes, Bronx . . . . .	5,000
4.	4.	Roger F. Rinn, bank messenger, bureau collector taxes, Bronx.	1,000
12.	12.	Dennis J. Ryan, assistant de- partment receiver taxes, Man- hattan . . . . .	1,000
18.	17.	Thomas J. Hart, bank messen- ger, department assessments and arrears, Queens. . . . .	5,000
		Wm. B. Carpenter, assistant cashier collector assessments and arrears, Queens . . . . .	5,000
20.	10.	John J. Brady, assistant cashier bureau assessments and ar- rears, Brooklyn . . . . .	5,000
28.	11.	John Collins, messenger, city paymaster office and auditing bureau . . . . .	5,000

*Fidelity and Deposit Co. of Maryland, Surety.*

1898.	1898.		
Feb. 7.	Feb. 7.	Chas. B. Coats, police clerk, third district, Brooklyn. . . . .	5,000
7.	1.	Jared J. Chambers, police clerk, first district, Brooklyn. . . . .	5,000
9.	1.	Cornelius J. Feehan, police clerk, second district, Brook- lyn . . . . .	5,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
Feb.	9. Feb.	9. Frank J. Gardner, police clerk, eighth district, Brooklyn....	\$5,000
May	10. May	9. Phillip Block, police clerk, fifth district, city magistrate's court, Manhattan .....	5,000
June	25. June	24. Eugene H. Healey, police clerk, sixth district, Manhattan ....	5,000

1898.	1898.		
Jan.	30. Jan.	28. Frederick T. Perry, police clerk, city magistrate's court, sixth district, Brooklyn .....	5,000

*American Bonding and Trust Co. of Baltimore.*

1898.	1898.		
Jan.	22. Jan.	22. Jeremiah J. O'Leary, clerk mu- nicipal court, fifth district, Brooklyn .....	5,000
1899.	1899.		
April	13. April	1. Thos. C. Cowell, deputy super- visor and account, city record.	2,500

*United States Guarantee Co., Surety.*

1898.	1898.		
April	12. April	1. Thos. C. Cowell, deputy super- visor, City Record.....	2,500
May	5. May	3. John Clark, dockmaster.....	3,000

*American Surety Co., of New York, Surety.*

1898.	1898.		
March	4. March	1. Louis M. King, surety deposit clerk, department of finance..	5,000

*City Trust Safe Deposit and Surety Co., of Philadelphia, Surety.*

1898.	1898.		
June	24. June	22. David Barnett, deputy collector city revenue .....	5,000



*Individual Sureties.*

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
(Myles Tierney and Andw. J. Connick.)			
Jan.	1. Jan.	1. John Whalen, corporation coun- sel . . . . .	\$5,000
(Abraham Stern, Henry Block and Simon Rossman, Jr.)			
Jan.	3. Jan.	3. Patrick Keenan, chamberlain...	225,000
(Hugh O'Neill and John L. Hamilton.)			
Jan.	6. Jan.	6. Thos. L. Hamilton, treasurer police pension fund . . . . .	100,000
(Henry Hesterberg and Adam Balzer.)			
Jan.	17. Jan.	17. Eugene A. Curran, assistant clerk municipal court, fifth district, Brooklyn . . . . .	5,000
Jan.	24. Jan.	22. Herman Gohlhorst, clerk municip- al court, fourth district, Brooklyn . . . . .	5,000
(Henry Hesterberg and Frank W. Carlin.)			
Feb.	5. Feb.	4. George J. Smith, chief clerk, magistrate's court, second dis- trict, Brooklyn . . . . .	5,000
(John D. Carroll and James McGuigan.)			
Feb.	16. Feb.	16. James P. Sinnot, assistant clerk municipal court, fourth dis- trict, Brooklyn . . . . .	5,000
(August Starbaro and Bernard Golden.)			
Feb.	17. Feb.	17. Thomas P. Walsh, dockmaster.	3,000
(John Courtney and Thomas A. Kerrigan.)			
Feb.	19. Feb.	19. Joseph L. Kerrigan, clerk court special sessions, second divis- ion, Brooklyn . . . . .	5,000
(Wm. Farrell and Chas. H. Marshall.)			
Feb.	21. Feb.	18. Edward Abeel, dockmaster....	3,000
(James H. Broomfield and Henry F. Dimock.)			
Feb.	23. Feb.	18. William H. Rockwell, dock- master . . . . .	3,000

When filed. 1898.	Date of bond. 1898.	Names of officers and title.	Penalty of bond.
(Henry H. Schildt and Chas. Froel.)			
Feb.	23. Feb.	23. Charles F. Wolz, deputy clerk court special sessions, second division, Brooklyn .....	\$5,000
(Edward V. Loew and Wm. T. Wood.)			
Feb.	26. Feb.	24. Wm. H. Burns, dockmaster....	3,000
(John McCarty and John McNamee.)			
March	8. March	8. Arthur J. Conway, cashier bu- reau collector assessments and arrears, Brooklyn .....	10,000
(Denis M. Hurley and Louis Hoffman.)			
March	14. March	9. Chas. H. Hoffman, assistant cashier bureau collection.....	5,000
(Michael O'Keefe and Edward S. Scott.)			
March	15. March	14. Arthur J. Higgins, assistant clerk municipal court, third district, Brooklyn .....	5,000
(Robert T. Mitchell and John Cowenhoven.)			
April	22. April	22. Chas. A. Courady, clerk munici- pal court, third district, Brook- lyn . . . . .	5,000
(John Murtaugh and Ernest Ochs.)			
June	29. June	29. Patt F. Lynch, assistant super- intendent markets, Brooklyn.	5,000
(Edward F. O'Dwyer and Daniel H. O'Dwyer.)			
Dec.	31. Dec.	31. John O'Dwyer, cashier bureau license, Queens .....	2,000

Mr. Moss—The resumé of this statement, as furnished by the comptroller, is as follows:

	Amount.	No.
Individual sureties .....	\$424,000	20
Fidelity and Deposit Company of Maryland....	35,000	7
American Bonding and Trust Company of Baltimore City .....	7,500	2
United States Guaranty Company.....	5,500	2
American Surety Company of New York.....	5,000	1
City Trust, Safe Deposit and Surety Company of Philadelphia .....	5,000	1
United States Fidelity and Guaranty Company.	2,405,000	294

WILLIAM N. SHANNON, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am deputy commissioner of highways for the borough of Manhattan. And as such deputy commissioner, acting as commissioner, I had occasion to advertise an auction sale in the borough of Brooklyn. This sale occurred on the 11th of April. The auctioneer in the case was Messrs. Peter F. Meyer & Company. I gave that auction to Peter F. Meyer & Company simply because Peter F. Meyer had sold the preceding sale—had been the auctioneer for the preceding sale given by my chief, James P. Keating. I followed the custom of the office in giving that sale to Mr. Meyer. On that one sale; yes, sir. That is the whole of it. I knew that Mr. Meyer's partner was the leader of our organization. I am in the organization of Tammany Hall. I look upon Mr. Croker as the leader of that organization, and I knew that Mr. Meyer was a dock commissioner in the present administration. I saw no impropriety in giving that auction to the dock commissioner, or in turning the advantages of the auction sales in my power into the firm of which Mr. Croker was a member. I thought that was a perfectly proper thing and a right thing to do, from a business standpoint.

Q. Did you also from a political standpoint? A. From a business standpoint, entirely.

Q. What was the business standpoint? A. Why we run the department on business and not politically.

Q. I understand that; but what was the business standpoint that induced you to give this sale to Peter F. Meyer & Company?

A. I told you, the business standpoint was the precedent set by my chief in the sale before.

Q. That was all? A. That was all; yes, sir.

JOHN J. RYAN, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am president of the aqueduct commission, and the aqueduct commission has had to conduct auction sales.

Q. I find an auction sale announced for April 20, 21 and 22, 1899, to occur at Croton Falls—a number of buildings, presumably within the line of the aqueduct? A. Yes, sir; I remember that auction; our auctioneer was Peter F. Meyer & Company.

Q. I notice that in the terms of sale the purchasers were not to pay, or there was no provision that they should pay the auctioneer's fees. Were they paid by the city? A. They come out of the returns from the sale.

Q. And to that extent they come out of the city, do they not? A. No, sir.

Q. They deplete the amount of the sale, do they not? A. No, sir.

Q. If they were not paid out of the returns of the sale the city would get it, would it not? The city would get so much more? A. Some provision would have to be made for the auctioneer.

Q. If the purchaser does not pay the auctioneer the city has to, does it not? A. I think that has been the rule.

Q. That is the case as to this sale, is it not? A. That has been the case in relation to all sales.

Q. And this sale? A. This and other sales.

Q. If the compensation were not out of the proceeds of sale the city would have so much more money, would it not? A. It does appear that way.

Q. What contract did you have with Peter F. Meyer & Company about their charges? A. Well, I can't quite figure the charges. Whatever the charges are it is a matter that has been customary with the dock commissioners, and nothing has been changed from the custom that has been followed by the commission for years.



Q. That is right; but I am asking you what the arrangement was? A. I am not quite clear on that. I think the auctioneer got 10 per cent; that is my best remembrance.

Q. How did you come to select Peter F. Meyer & Company as the auctioneer? A. Peter F. Meyer had been formerly the auctioneer of the aqueduct business before I was commissioner.

Q. And so you continued him? Is that the only reason? A. Well, that is one of the reasons.

Q. What was the other reason? A. Another reason is that they are a house of high repute and high standing as auctioneers. That is another reason. They could do equally good work, if not better than some of them.

Q. You knew Mr. Meyer was dock commissioner, did you not? A. Yes, sir; I did.

Q. Did not the fact that Mr. Croker was his partner have something to do with your sending the auction sale there? A. I told you before, that Mr. Meyer had been employed by the dock commissioners before I got in there.

Q. I am talking about now. Did not that have something to do with your selecting him? A. That might have something to do with it, but I followed along in the course that had been laid.

Q. The fact that the leader of your organization was a partner of that concern would not cause you to throw the concern out, would it? A. If the concern was not one of proper standing and equipped properly to do the work, I do not think it would play on my mind.

Mr. Moss—Of course not.

The Witness—But if it was an equally good firm with others, I think they would get the benefit of the doubt from me.

Mr. Moss—That is the idea, and I am glad you express it so clearly and so plainly.

The Witness—Yes, sir; there have been other auction sales under my department besides that one since I have been commissioner, and all of those auction sales have gone to Peter F. Meyer & Company.

Q. In round numbers, how much compensation did you pay Peter F. Meyer & Company for this sale of April 20th, 21st and 22d? A. I don't know. We haven't yet had the returns from that sale; but the records will show.

By Mr. Hoffman:

Q. What has been the custom in the department in relation to the payment for auctions held on behalf of the city? A. Whatever has been followed with respect to Peter F. Meyer & Company has always been the custom of the commissioners. I am not quite clear about the figures. I think I stated that to Mr. Moss.

Q. What is the custom about the fee? A. The custom that now prevails has been the custom always of the aqueduct commissioners. That the auctioneer's fees are paid out of the aggregate amount, of the sale realized, and not by the purchaser.

By Mr. O'Sullivan:

Q. The usages in relation to auction sales are such as obtained throughout Mr. Strong's administration and previous administrations? A. Yes, sir, precisely.

Q. You have not changed in that particular? A. Not any.

The Witness—I want—I might state something so as to make it a little more clear as to some things. The percentage might appear to be pretty large. It may be taken into consideration that the auctioneer has to go up through Westchester county, and go from one village to the other, where those sales are, and the expense is quite large. He might have to go and stay over night; and he has considerable expense, probably, as to these sales, and probably that accounts partially for what might appear to be a large percentage.

By the Chairman:

Q. Is he not paid his expenses in addition to that? A. No, sir, that comes out of his fees. All his expenses come out of his fees.

Q. He gets ten per cent? A. I think that is the amount. I am not quite clear about that.

Q. The expense of advertising, etc.: Does he pay those? A. I am not quite clear about that.

Q. How long have you been a commissioner? A. One year. I might state, too, that I am not the whole department; that there are five or six other commissioners.

JOHN H. CAMPBELL, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am deputy chamberlain of the city of New York. I have brought a list of the banks of city deposit to you.

Mr. Moss—I will have this marked for identification at this point. This is a statement of banks of city deposits.

The paper is marked “For identification Exhibit A, May 19, 1899.”

I am acquainted with the United States Fidelity Guaranty Company, and its officers. I know, as a financial man, that employees of banks are bonded, as a rule, and in banks of large business, to a considerable amount. I don't know exactly the percentage. I have not taken any interest in the chamberlain's office in the matter of bonds being taken out by bank officers, in any particular company. Never. I have never done anything whatever to influence anybody to turn the bonding business of any bank into the United States Fidelity and Guaranty Company. I have never written any letters on that subject. I have never had any conversation with Mr. Freedman on that subject. Mr. Freedman didn't ever ask me. Nobody asked me what I mean to infer by that answer, they would not. Our bureau or department is that department which actually banks the money of the city into these various banks.

Q. And your department has the deciding of the banks which shall receive the city deposits, does it not? A. Not necessarily. The banks are designated by a banking commission, consisting of the mayor, the comptroller and the chamberlain. We may select from the banks so designated. And we do select. And the paper I handed you was a printed list of banks approved by the banking commissioners.

Q. And the writing upon that paper shows the blanks which you had selected from those designated to receive the deposits? A. No, sir.

Q. What did the writing show? A. You asked me in your subpoena to bring a list of the banks that had been designated from the first of January, 1898, and that paper shows the date of designation by the banking commissioners.

Q. Does it not show whether they are holding city deposits?  
A. Well, most of them are. No, you have a list there.

Q. I know; the banks that are holding city deposits are banks in that list which are satisfactory to the chamberlain's office? A. Satisfactory to the banking commissioners.

Q. And satisfactory to the chamberlain's office? A. They are. I have never introduced any representative of the United States Fidelity and Guaranty Company to bank officers for the purpose of securing their business. I have never written any letter of introduction? And I have taken no interest whatever in the question of banks bonding their employees in any particular company. I don't recollect that I have. If I was asked—If I had done it I think I would remember, and I don't think I would do a thing of that kind without consultation with my superior.

Q. You would consider it a delicate matter for the financial office of the city to be interesting itself in the internal workings of any banks who might or might not be city depositaries, would you not? A delicate business? A. No, I think it is necessary for the city to know the internal working of banking institutions.

Q. So far as the company in which they bond their employees? A. No.

Q. And it would be rather a delicate matter for your office to interfere in such a thing as that, would it not? A. Yes, sir.

Q. Have you taken any interest at all in the affairs of the United States Fidelity and Guaranty Company, so far as suggesting that persons should take bonds in it? A. Well, will you repeat the question.

Q. (Repeated by the stenographer.) A. I don't recollect.

The Chairman—Is that the right name? Fidelity and Guaranty Company?

Mr. Moss—United States Fidelity and Guaranty Company.

The Witness—I thought it was Casualty Company.

The Chairman—Casualty Company, is it not?

Mr. Moss—Guaranty is right.

Q. Is this your signature? A. Yes, sir.

Mr. Moss—I read this letter:



“CITY OF NEW YORK,  
“OFFICE OF THE CITY CHAMBERLAIN.  
“Patrick Keenan, Chamberlain.

“December 7, 1898.

“To whom it may concern:

“My Dear Sir.—This will serve to introduce to you Mr. Percy J. A. Lear, of the United States Fidelity and Guaranty Company, Baltimore, Md., New York office No. 140 Broadway, the vice-president of which is Mr. Andrew Freedman.

“He will state the nature of his business and any favors granted in this line will be greatly appreciated by

“Yours sincerely,

“JNO. H. CAMPBELL.”

Q. You did not do that without the knowledge of Mr. Keenan, did you? A. I did.

Q. You used the official paper of the department for that purpose, without his knowledge? A. I did.

Q. Did you ever mention it to Mr. Keenan? A. I don't think so.

Q. Did you not know that bonding business was secured from banks on the strength of that letter? A. I don't know that.

Q. Do you not know that the banks used now as city depositaries are bonded—that is, their employers are bonded—in that company which you endorsed? A. No, I don't know. I have no knowledge. I am a member of the Democratic Club, and a member of the organization. I might have heard that Mr. Croker, the leader of the organization, was interested in the company.

Q. How did you secure your appointment? A. I didn't ask for it.

Q. When were you appointed? A. I was appointed on the 1st of January, 1898. Do you mean originally?

Mr. Moss—Yes, originally.

The Witness—In 1889. I have been continuously in office. I was simply retained there, and I spoke to nobody, and nobody spoke to me, about my being retained.

By Mr. O'Sullivan:

Q. You have been in your present office for ten years? A. A little longer than that. From between 1888 or 1889, sometime; yes, sir.

By Mr. Hoffman:

Q. You were deputy chamberlain, under Mr. McCook's administration? A. I was.

Q. Was any report made by the commissioner of accounts in 1897-1898 with reference to the city chamberlain's office? A. I think that is a matter of record, that the office was commended.

Q. Since 1898 was there anything in relation to the city chamberlain's office? A. Yes, sir; commended by the commissioner of accounts.

Q. Has it been since you were connected with the chamberlain's office? A. Three or four times; and the State Comptroller, in the Republican report, by adopting the system of bookkeeping we have there, through all the county treasury offices in the State of New York.

WILLIAM J. CARROLL, being duly sworn, testified as follows:

Examined by Mr. Moss:

I am connected with the Consolidated Ice Company. I am clerk in the sales department.

Q. What is your salary? A. I refuse to answer.

Mr. Moss—That is right. I do not press it.

I sell ice. I have not sold ice to the department of which my brother, Edward R. Carroll, is the clerk. The company has sold it to the city departments. My brother, Edward R. Carroll, is the clerk of the Court of General Sessions. And another brother, John F. Carroll, was formerly the clerk of the same court. I have had nothing, directly, to do with the sales to the city departments. I have not canvassed the city departments. I don't think I have

approached anybody with reference to selling to the city departments.

Q. Who have you seen with reference to the city departments?

The Witness—To solicit orders?

Mr. Moss—With reference to selling to the city departments, in any way.

A. The company has sold the city departments for years and years, long before I came there.

Mr. Moss—I am speaking about what you may have done.

The Witness—I don't think I have asked anybody.

Q. Are you sure? A. I think every order—in fact, I am pretty sure that every order we ever got from the city departments was mailed directed to the company.

Q. Then you think orders were obtained without canvassing? A. I guess they were. In fact, I am pretty sure they were, all of them.

Q. Have you canvassed yourself?

The Witness—Outside trade, do you mean?

Mr. Moss—Yes.

A. Oh, yes. I don't think I have canvassed in saloons. I might possibly have canvassed in saloons a couple of years ago. I have been there since 1896. I think the only time that I canvassed saloons was while Mayor Strong was in office, and that was because I was in a different place afterwards. That is, since 1897.

Q. Are you really canvassing now? A. Partly so, yes, sir.

Q. In what line do you canvass? A. In every line. Everybody that will buy ice and pay for it.

Mr. Moss—That is all.

The Witness—I want just a word about the city departments.

Mr. Moss—Yes.

The Witness—The company I believe has been serving the city departments for twenty years, and the orders have been received by mail ever year, with the exception of those that we bid for.

Q. Are you not mistaken about that? Has the Consolidated company been in existence for twenty years? A. What I mean is, we succeeded the Knickerbocker company and the Knickerbocker previous—well, I don't know that it was the whole of the Consolidated Ice Company, with the Knickerbocker. I believe there were other companies. The company that I went into originally was the Consolidated Ice Company. I did not go in with the consolidation. It had been consolidated before I got there, some time, I think.

Q. Who placed you in the company? A. I refuse to answer. That is a private matter between myself and the gentleman, that has nothing whatever to do with any city office.

Q. Was that Mr. Carroll, your brother, John F.? A. Oh, no.

Q. Was it John F. Carroll? A. No, it was between myself and another gentleman that has nothing whatever to do with—a stranger.

Q. Was it Mr. Croker? A. I don't know Mr. Croker.

Q. Was it Mr. Croker who placed you there? A. No, sir.

Q. Was it anyone that was prominent in the organization? A. No, sir.

By the Chairman:

Q. Were you in the employ of the Knickerbocker Ice Company? A. No, sir.

Q. Do I understand you to say that the Consolidated was the successor of the Knickerbocker company? A. Yes, sir. Well, I don't know; I couldn't tell you the legal part of that. I don't know whether——

Q. You said that the company had been furnishing ice to the city departments? A. I understand that the old Knickerbocker company was serving ice to the city.

Q. Is that company out of existence now? A. That I couldn't say. I couldn't say whether they are. I don't know the legal part of it at all.

Q. When did the Consolidated company begin to furnish ice to the city? A. Well, I don't really know. I think the counsel could tell you that. I don't know when the Consolidated was in-



corporated. I think it was somewhere—well, I couldn't really say, to tell you the truth.

Q. The Consolidated Ice Company was incorporated before you went into it? A. Oh, yes, some time.

Q. You do not know how long? A. I don't know how long.

Q. How is it you will testify that they furnished the city for twenty years? A. I understood the Knickerbocker did previous, and I understand they are carrying out the business of the Knickerbocker company. Contracts that the Knickerbocker assumed, the Consolidated Ice Company has now assumed.

Q. They carry out the contracts? A. They carry out the business.

Q. What period do those contracts extend over?

The Witness—The city?

The Chairman—Yes.

A. The only part of the city business that amounts to anything is advertised every year.

Q. That is a yearly contract? A. That is a yearly contract, and I think it is advertised in December.

Q. There was nothing assumed by the Consolidated Ice Company in that? A. Not city business. Outside business, private individuals. If the Knickerbocker had made contracts, the Consolidated assumed them.

The Chairman—I am speaking about the city contracts?

The Witness—The city contracts—have no contracts outside of a year, and those are all advertised for, and the Knickerbocker or Consolidated got it by the lowest bid.

By Mr. Wilson:

Q. Did the books of the old company come over? A. The books of the company I know nothing about.

By the Chairman:

Q. You do not know whether the Knickerbocker is in existence now or not? A. I could not say.

By Mr. Moss:

Q. Do you know that the contracts that the Consolidated Company have taken for the supplying of the city departments are not at the lowest figures that were bid? That there were other bidders? A. I understood that the Consolidated Ice Company was the lowest bidder. Otherwise we would not have had the contract. In fact, I am pretty sure they were.

By the Chairman:

Q. Did you have anything to do with the making of these contracts? Is that in your department? A. That is in the sales department, yes, sir.

Q. That is the department you are in? A. The sales department I am not connected with.

Q. Do you pass upon those contracts? A. I do not. The sales agent passes upon them.

Q. You have no personal connection with the making of sales in the city department? A. I am a clerk in the department, only.

Q. You have no personal connection with the making of contracts with the city departments? A. Not a bit, only I might have carried the written bid there. I don't remember about that, but that is all I know. But I didn't make the bid or submit the bid.

Q. You did not pass upon the bid? A. I did not, no, sir. I didn't know the bid that was to be put in, until the bid was submitted to the department.

## AFTERNOON SESSION—2.15 P. M.

Present, of the committee, the Chairman, Mr. Wilson, Mr. Hoffman, Mr. Costello and Mr. Boland.

HENRY E. ABELL, sworn:

By Mr. Moss:

I am a member of the police board of the city of New York. I was appointed on the 30th day of June, 1898. By Mayor Van Wyck. I think that Silas B. Dutcher first spoke to me about my appointment in my house. He asked me if I would take an appointment of police commissioner. Well, I told him that I might and that I might not; that I would take it possibly if there were no conditions to it; that I would not take it if there were. He asked me if I would call upon Mr. Lauterbach and I told him I would and I did. I told him that I would accept under such conditions only. I next saw the mayor of New York. One man was present. Mr. John Windolph, aqueduct commissioner. The man that was appointed at the same time that I was. Then I went into the police board. I went into the police board as a Republican. But the mayor did not make that condition. In a non-partisan board. I do not understand that under the law it was necessary to appoint two Democrats and two Republicans and the law does not provide it, and you ought to know it. That is what I understood then and what I understand now. I helped make the law. I am now a member of the police board and appointed under the new charter. I am going to remain so until I am removed or resign or legislated out.

Q. Were you appointed as a Republican? A. Well, I was and I was not. Do you want to know what the mayor said. He asked me if I was a Republican, and I told him I always had been and I saw no reason why I should be otherwise. He asked me if I belonged to the organization of the Republican party and I told him I did and I intended to remain there. Well, it is a bipartisan board as it is constituted, but the law does not compel it. It is so constituted in recognition of a principle, and that principle the mayor recognized, and that is the reason why my first information about that position came from a Republican,

namely, Mr. Dutcher; yes, sir, a good one; and my second information came from another Republican, namely, Mr. Lauterbach; yes, sir, and a good one, and they are organization Republicans. I went into the board to represent what I conceived to be the duty of a police commissioner.

Q. Well, did you go in there to forget your Republicanism and to be entirely uncontrolled by any Republican principles or practices—in other words, to be an entirely non-partisan man there? Was that what you went in for? A. I went in there just to perform my duty.

Q. Certainly; but secondly? A. And secondly I went in there with a determination that no partisanship should be exercised to prejudice any Republican in the police force.

Q. To protect the Republicans in the force? A. Yes, sir. To protect them, and that is what I have been trying to do.

Q. And did you go in with any idea, other things being equal, to secure advancement for Republicans in the force? A. All things being equal, I should.

Q. So that when you went into that board, Mr. Abell, it was plainly in your mind that you had, other things being equal, a duty to Republicans, who, like yourself, were good Republicans and members of the association? A. Primarily it was to perform my duty as a police commissioner; and secondarily—

Q. Secondarily that? A. Secondarily that—or any other good man, Republican or otherwise.

Q. Did you find that it was necessary to be alert or to do anything to protect Republican members of the police force? A. When?

Q. At any time? A. Necessary by what condition of things?

Q. In any condition, against transfers, details, trials or anything? A. Not specially so.

Q. Well, did you generally? A. No, not by the exercise of any undue influence.

Q. No; but did you find it necessary to keep your eyes open to protect members of the Republican organization in their positions, in their details? A. Yes, sir; I always keep my eyes open; I am not asleep.

Q. So that, Mr. Abell, as the board has been conducted, according to your experience, it has been necessary for the members of the board to know who their organization people were in the



force—their duty to the party to know it, take care of them—is that it? A. Necessary what?

Q. To know who the members of the organization were in the force? Look out for them? A. Not particularly.

Q. Well, Mr. Abell, you found that the two Democratic members of the force were doing all that they could to secure promotion for their friends, didn't you? Didn't you find that was so? A. I rather suspected they would, and I put myself in a position——

Q. And because you suspected that they do so, you kept yourself in readiness to look after those who were of the same political faith as yourself; is that so? A. Well, yes, to a certain extent.

Q. And in order to do that it was necessary—or natural—we will put it that way—for the police commissioners to find out what the politics of the members of the police force were? A. No, not necessarily.

Q. But you did find out, didn't you? A. Not always.

Q. You found out in most cases, didn't you, in the higher grades at any rate? A. Didn't have any higher grades to dispose of except two cases, I think.

Q. Yes; but there are the matters of the assignment and transfers of officers, captains, to precincts? A. Yes.

Q. And inspectors to districts? A. Yes.

Q. In those matters to look after it, as you say, you found out what the politics of those gentlemen were, didn't you? A. Not in all cases.

Q. In most of the cases, you did, didn't you? A. I cannot say most of the cases; my aim was to prefer men who were suitable to the service.

Q. Well, isn't it a fact that under this administration of which you are a part now, the political considerations have occupied some part of your time and attention? A. Yes, yes, yes.

Q. And that mainly because of the attitude of the commissioners who represented the dominant party, who were looking out for theirs? A. No.

Q. You said you thought it was necessary to look out for your side because you thought they were looking out for theirs? A. Yes, but not because of any aggressiveness on their part.

Q. Do you think, Mr. Abell, that such a condition where the commissioners who are managing the police force spend their time or some portion of their time in looking out for the politics

of it,—do you think such a condition as that is good and healthy and conducive to the proper administration of a police force for all the people? Do you? A. Well, that depends. If they had put that above public duties, I should say it would not be healthy.

Q. But supposing they put it equal to public duties is it healthy? A. It is not a supposable case.

Q. Well, in the way that you have put it, do you consider it a healthy and a good way of conducting a police force? A. In the way that I have put it—I want you to understand I put it—that no prejudice should be exercised against a man because he happened to be a Republican or a Democrat, if he is a good efficient officer. That is the way I want it understood.

Q. You are there to protect them? A. Protect anybody.

Q. And you are there as an organization man to protect them? A. Well, I was not sworn in as an organization man.

Q. I know; but your implied obligation was to protect them, wasn't it? A. Well, I don't know what you consider implied.

Q. I am asking what you consider? A. My implied obligation that rested upon me was that no prejudice should be exercised against a man because he was a Republican.

Q. Wasn't that implied in the fact that the matter was broached to you by Republican leaders? A. No; it never was broached to me.

Q. You said it was by Mr. Dutcher and Mr. Lauterbach? A. I didn't say any such thing.

Q. The matter of your appointment? A. I don't know what construction you put upon it.

Q. The matter of your appointment was it not first mentioned to you by these gentlemen? A. That don't follow.

Q. Don't it follow that when you went in there as a representative of the organization you were to look out that the interests of the organization were not hurt? A. I don't know whether it follows or not, so far as those gentlemen were concerned there was no obligation imposed upon me by them.

Q. You are not inclined to answer that question as I put it? A. No.

Q. I ask you this question now in another shape; do you believe that there should be any politics in the police department? A. Well, I believe that a man in the police department has a right to have political opinions, Democrat or Republican.

Q. To be sure; but should it be necessary to know the politics of men in the police department and to consider their politics in

the management of that department? A. Not absolutely; and it is not necessary to my action to know whether a man is a Republican or Democrat; you place him in the position where he can do the best service.

Q. What was the first official act that you performed as a commissioner? A. Well, I performed several acts.

Q. What was the first? A. We had quite a number of subjects up, matters of detail in the business of the department which you are acquainted with.

Q. But I am not acquainted with what you did. A. Well, I can't really remember now, the record will show you what was done.

Q. Was not the first official act that you performed to vote upon a resolution making Mr. Devery the permanent chief? A. No, sir.

Q. Wasn't that done at the first meeting? A. Yes; not the first official act though.

Q. And was there anything of importance transacted at that meeting before you voted for Mr. Devery? A. Yes; everything is of importance in that board.

Q. Was that the first resolution that was offered that day? A. I think not. Before I voted on that resolution, I did not discuss with anybody the question of making a permanent chief, not a soul. No one had asked me to vote for it. No one had mentioned Mr. Devery's name to me, not a person.

Q. Had you looked up his record in the department? A. I knew some of it.

Q. But had you looked it up? A. In the department?

Q. In the department? A. No; I judged from public report.

Q. You judged from public report? A. Yes.

Q. Had you seen any public report at that time? A. That particular time?

Q. At that particular time or just before it? A. No; I found him in the department handed over by you and he was there.

Q. As a captain? A. No; I did not find him as a captain.

Q. But you said you found him as handed over by me? A. Yes.

Q. Do you mean to say he was anything more than a captain at that time when he was handed over by me? A. He was handed over by you as acting; that is a good deal in the police department; I found him as acting chief of the department.

Q. But you had seen in the public prints before you were appointed a commissioner, a considerable amount of discussion as to his record, his character and his ability, hadn't you? A. Yes; and about a good many other men.

Q. Yes, and particularly about him? A. Yes; and I had seen that he had been reinstated by the order of the courts to his position from which he was unlawfully deposed.

Q. Exactly; but did you also see before you voted for him, that there was pending in the records of your department a case against him which he had stayed by order obtained by him, which stay he had never vacated, and which was remaining undisposed of on the records of the board? A. I had not heard of it in the department, but I had heard of it outside.

Q. You had heard of that outside before you voted? A. Yes.

Q. Did you send for that complaint? A. No; it was not necessary.

Q. Why not? A. Because you had tried him once or twice, or somebody had, and the courts had said that he was unlawfully tried; and you tried to try him again, and the courts said you could not and enjoined you.

Q. Yes; but did you examine to see whether the complaints upon which he had been tried were the same complaints that were lying in your board? Did you examine? A. I had a right to suppose it was the same case the court had reviewed and said you could not try him on that complaint, because it was substantially the same as he had been tried on before.

Q. Where had the court so reviewed it? A. That was the report.

Q. That was simply a report you had that the court had decided that he could not be tried on that? A. Yes; that case was pending when you were there, and I supposed you knew all about it.

Q. I am asking you what you know. Was not that the case which he had stayed by an order of the court? A. I suppose it was.

Q. All the time that I was in the board, as you say, that trial was stayed by his order. Why didn't you require him to vacate that stay on his motion, so that you could dispose of that case and get it off the records before you voted on it? A. Well, I thought it was sufficient, as far as my action was concerned, that the courts had intervened and said you could not try him on it.



Q. But you did not examine the complaint itself? A. No; it was not necessary.

Q. And you did not see any order, did you? A. No.

Q. And you did not see any judgment of the court, did you? A. No.

Q. You did not consider it necessary, did you? A. No; it is there yet.

Q. It is there yet; well, why haven't you required him, as matter of common discipline and decency, to make a motion to vacate his own stay, so that you could wipe that case off the record? Why haven't you done that? A. That is his business.

Q. Why isn't it your business as one of the heads of the police force, charged with the discipline of that force and responsible for the morals of that force, which must be affected by such a circumstance—why isn't it your duty? A. Anything more?

Q. Can't you answer that—why isn't it your duty to see that that is done? A. Well, I do not consider it my duty to undertake to undo what the courts have done.

Q. But you don't know that the courts have done it; you have not seen it? A. I do.

Q. Did you see the papers, whether the charge is there? A. I don't know; I cannot say.

Q. And when you come to examine that charge, Mr. Commissioner, and to examine the cases that have been tried in the courts, you will find them different, if you ever look to see? A. The courts have—they have satisfied me.

Q. Do you know the courts have? Have you compared the papers so as to see? A. Only the sources of information we get generally.

Q. What general sources of information have you had on that point? A. From reading the newspapers and knowing the men.

Q. Are you a lawyer? A. Yes.

Q. Then you understand these papers? Have you read them? A. Yes; and that is why I acted.

Q. And you did not read them? A. Well, it was not necessary.

Q. As a lawyer, how could you act on papers you had not read? A. I get decisions of the Court of Appeals and other courts through the newspapers.

Q. Didn't you read in the newspapers that the charge lying in the police files was not the same charge upon which he had been acquitted? A. In some newspapers, yes; and some, no.

Q. In some newspapers, yes; and some, no; and so you knew it was an unsettled question, didn't you? A. Yes.

Q. Why didn't you investigate it, then? A. Well, why didn't you?

Q. Because it had not occurred. Now, wait a moment, Mr. Abell; we never advanced Mr. Devery above the position that we found him; we never made him an inspector; we never made him deputy chief; we never rushed him up over the heads of his brethren, whose records are clear. You did it; you did it? A. I did it.

Q. You promoted him to chief of police? A. I found him acting as chief of police, and I knew no reason why he should not continue; I know none now.

Q. You know that two other gentlemen—— A. What are you telling me what I know for? I will tell you what I know.

The Chairman—I do not think it is necessary to get into an argument with the counsel.

The Witness—I do not think it is necessary for counsel to tell me what I know.

The Chairman—We are trying to get at what you know.

Q. You knew that two other gentlemen, representing the very organization that you represent, had been removed from their positions as commissioners of police, and that you had been put into one of those positions, because they would not consent to make Mr. Devery chief of police, didn't you? A. I know it from the same source that I knew the other things, from the newspaper reports; that is all.

Q. You did not question it? A. No; I did not question the other.

Q. And you did not doubt it? A. No; and I did not doubt the other.

Q. You knew that the man who appointed you and gave you the position, with the salary attached to it, had expressed his view on the matter by removing the commissioners who had refused to carry out his will; you knew that through the papers, didn't you? A. I had heard he had removed the commissioners.

Q. And wasn't that the reason, Mr. Abell, why you promptly voted to make that acting chief the full chief? A. No, sir.

Q. Without investigation—without consultation? A. No.

Q. What was the reason? A. The reason was that I found this man there; that he had been promoted from one stage to the other, from one rank to the other; he was acting chief; and I assumed, and I thought I had a right to assume, that those who placed him there knew that he was capable, worthy and competent for the place.

Q. Well, were you not put into that board for the purpose of exercising your own judgment upon the matters that came to you as commissioner, and not simply to register the judgment of three other men? A. I supposed so, and that is one of the means I had of forming my judgment.

Q. Simply to fall in line with the others? A. No, sir.

Q. They might, for all purposes then, so far as your vote is concerned in that matter, a board of three would have done just as well? A. Possibly; I don't know.

Q. You made no independent investigation and knew nothing about it? A. General information.

Q. When you knew what had happened to the other two gentlemen who had refused to be coerced by the executive in that act — A. I don't know whether they were coerced or not.

Q. You have heard the testimony, haven't you? A. Yes, but all testimony is not reliable.

Q. Do you doubt the testimony you have heard? A. Some of it I do.

Q. Now, let us see what it was that was in the newspapers which you saw from which you got your information. Here on May 18, 1898, is an article from the World entitled "Van Wyck after Hamilton's head. He must vote for Chief McCullagh's removal or go. Phillips, too, on the list. Stormy interview with the mayor." Had you read that? A. I don't recollect; I don't read very often——

Q. You don't read very often? A. I say I don't read the World so often as I do some other papers.

Q. Do you read the papers generally often? A. Well, yes; not all of them. I read the Sun mostly.

Q. Didn't you read anything like that in the Sun? A. I don't remember now. I don't believe I read it in that paper.

Q. Do you sometimes read the Herald? A. Not very often—— particularly the personals.

Q. Are you against the personals? A. That kind of personals.

Q. And what have you done to ferret out the crime, if there be crime underneath those personals, or to punish the people who are publishing them? A. I have tried to catch some of them.

Q. Catch who? A. Some of those people that advertise.

Q. What have you done? A. Well, I have sent letters and men after them.

Q. Do you mean to say you have answered personals? A. Yes.

Q. Oh, you have? A. Yes, sir.

Q. Personally? A. Not over my own name.

Q. By writing letters yourself or dictating them? A. Not dictating them; writing them myself.

Q. Since you have been commissioner? A. Yes, and before.

Q. Did you get answers? A. I don't think I did; I think they got on me.

Q. And you even did this before you were commissioner? A. Yes, I did.

Q. What was there to get on to before you were a commissioner? A. I wanted to see what this system was.

Q. Didn't you get answers before you were a commissioner? A. No.

Q. Never got an answer? A. I don't know; I don't recollect.

Q. If you never got an answer how do you know these are genuine advertisements? A. I don't know they are genuine; everything in newspapers is not genuine.

Q. Have you ever inquired of the paper itself? A. No, sir.

Q. Do you really mean to make an insinuation against the morals and the good faith of a prominent newspaper here by this testimony? A. No; it may be perfectly legitimate.

Q. Do you insinuate that a great paper like the Herald is using its columns for immorality and indecency, and you are doing nothing to stop it practically? Do you insinuate that? A. I don't insinuate any such thing.

Q. What do you mean about talking about the personal column of the Herald in the way you have done and another witness has done? A. Because you had reference to it before.

Q. Did I ask you about the personal column? A. No, I read the newspapers and testimony in the case.



Q. Were you in serious earnest when you made that statement about the personal column of the Herald? A. Yes, I was, because that is the feature you had reference to I think.

Q. I think not; and you could not have thought that if you think for a moment. I ask you to notice the article from the Herald of March 8, 1898: "Plan to force McCullagh out." A. March 8, 1898?

Q. Yes. That should be May 8th. "Roosevelt's chief of police has a disturbing interview with President York of the police board, and leaves headquarters. He won't get out, the chief declares. Commissioners made Devery acting chief instead of Cortright whom he had selected. Tried to stop gambling. Told the captains it must stop or either they or he must get out"—that is McCullagh. "The captains scoured the city in obedience to orders. They hold violations of the law in check on Sunday." Do you remember articles like that in the Herald? A. I don't remember particularly about the articles in the Herald.

Q. Isn't it a fact that it was published in the newspapers and came to your attention that a plan had been devised to force Mr. McCullagh out because he was interfering with gambling? A. I might have seen such statements in some newspapers, but they did not prove the fact.

Q. Of course not, but it was a circumstance which occurred close to the time when you entered into the troubled waters. Do you ever read the Press? A. Only three months before.

Q. Do you ever read the Press? A. I do.

Q. Did you read in the Press an article like this, which was published on the 28th of May: "Bold defiance of Tammany Hall by Chief of Police McCullagh. He points out how he has offended gamblers and criminals by doing his duty, and says he will never go until he is forced, but will demand reasons." Do you remember any such thing as that? A. By whom—by chief who?

Q. I am speaking now of an article published in the Press—the paper called the Press? A. I don't remember that particular article.

Q. Well, do you remember reading articles similar to that? A. Yes, I have a faint recollection.

Q. Do you not remember that in the newspapers Mr. McCullagh published over his own signature a statement of the fact that he was being persecuted because he had interfered with the gamblers; that he was being threatened with removal; that he would not go out willingly, and that if he was forced out, those who did it would have to take the consequences. Do you remember anything like that? A. When was that? In March, along there?

Q. That was in May? A. I might have read something of that sort. I have read other things from McCullagh, too.

Q. Yes? Did you ever know anything against officer and chief McCullagh's character or police ability? A. Personally?

Q. Yes. A. No.

Q. Or upon any ground that you are willing to take the responsibility of stating now? A. I can only tell as to what I know of him since I have been in the department in my contact with him.

Q. Yes. You never had any reason to complain, did you? A. Oh, I was not in a position to complain, particularly; it was not my affair.

Q. Did you find any fault with him, or have occasion to? A. When?

Q. At any time? A. You mean before or since?

Q. Well, before he was removed, as a policeman? A. I didn't know so much about his transactions in the police department, any more than I got from public sources—that is all.

Q. And you have nothing definite to state against him or for him, then? A. I had not any reason to then, because I did not know all the details.

Q. Then I ask you if you noticed this whole-page article in the World of May 20th, with the pictures of both of the men, entitled "Tammany's Conspiracy to Oust Chief of Police McCullagh and Appoint Devery," and on one side 'Pages from the record of the man whom Tammany commissioners have decided shall be placed at the head of the police. Frequently charged with police blackmail. Witnesses before Lexow committee swore to payment to him of protection money while he was in command in Eldridge street; dismissed; reinstated and is now under charges.' On the other side of the page "Splendid record of the man who the Tammany Hall commissioners are plotting to remove from the head of the police. He is no man's man and knows no politics in duty, while captain in two important precincts he proved a terror to evil doers and afforded no protection to law-breakers. No charges

of any kind were ever made against him." Do you remember such an article as that? A. In the World?

Q. In the World? A. I cannot say; if I had it would not make any difference if I read it, in my judgment.

Q. Do you not remember that in that article the exact language of the witnesses against him was reproduced in black type, taken out of the official records—reproduced in black type, exactly what they swore against him? A. I told you I don't remember of reading that article; therefore, I don't remember anything about the black type.

Q. Do you remember of reading any article in which the testimony of payments to him given in judicial proceedings are reproduced and published word for word? A. I think I remember something.

Q. You think you do? A. Yes; the courts upset all that.

Q. Why, my dear sir, don't you remember that the reason that the court upset the removal of Mr. Devery by Commissioners Martin, Sheehan et al—the reason they reversed that was because he claimed to be sick, when he was tried and he was tried in his absence? A. Yes.

Q. Don't you remember that in that case he did not even deny the charges, and that the case was reversed simply because, in the judgment of the court above, he had not been given an opportunity for a proper defense. Don't you know that? A. I don't quite remember all the facts. It is enough for me to know that the court had reversed it by decision of the court.

Q. Wasn't it important for you to know whether in the proceedings that had been reversed he had ever denied the accusations? Wasn't that important? A. Not so far as the proceedings of the court were concerned.

Q. Oh, as a technical matter, of course not; but as a moral matter about a man that was to be elevated to the command of the whole force, wasn't it important for you to find out whether he had ever denied the accusations? A. As important perhaps, as it was for you to ascertain when you kept him in as captain.

Q. But, my dear sir, you have already told us that there was a stay of proceedings while he was a captain under us, which prevented us from acting? A. Yes.

Q. There was nothing in that stay of proceedings that compelled you to vote to make him chief, was there? A. No; there wasn't anything in that stay of proceedings or anything else, excepting my own judgment as to what I should do.

Q. Now, Mr. Commissioner, having voted to make Mr. Devery chief of police, and having become somewhat acquainted with his record as chief of police, and having listened to testimony that has been adduced concerning the condition of this city and police negligence, are you satisfied with him as chief of police? Are you—yes or no? Why do you hesitate on that question? A. Well, I am trying to get over all your questions—you go over so much ground.

Q. We will get down to one proposition, then. In the light of all that you have learned and heard, are you satisfied? A. In the light of some of the testimony, most of that I thought——

Q. I did not say some; I said in the light of all that you have learned and heard, are you satisfied with him as chief of police? I want you to put yourself on record. A. I am until I am satisfied that he has been derelict in the performance of his duty.

Q. Well, have you any doubt on that question? A. Oh, yes; I have some doubt.

Q. You have? A. Yes.

Q. You are still in doubt as to whether he has been derelict or not, are you? A. Yes.

Q. You consider it an open question? A. Yes. You want to corroborate some of the testimony you have adduced here before I vote to remove Mr. Devery.

Q. You want some more corroboration, do you? A. Yes.

By the Chairman:

Q. I want to ask Mr. Abell a question: Are you aware that the first time that Mr. Devery was ever called upon to affirm or deny these charges was before this committee, within the last month, since this committee has held sessions? A. I don't recollect. To tell the truth I did not read the testimony.

Q. He testified here, when he was on the stand, that the first time he ever was called upon to affirm or deny the charges that were pending against him was here at that time? A. Yes; I don't remember of reading it; I don't think I read the testimony.

Q. At the time you took action confirming his appointment as chief, did it occur to you to inquire whether those charges were true or not that were pending then against him, that had not been disposed of? A. Well, it occurred to me, Mr. Chairman, in this way: That an inhibition had been placed upon the board to try Mr. Devery on charges that had been determined before.



Q. That was your impression at the time, that the inhibition was on the trial of the same charges that had been in your judgment disposed of? A. Yes; substantially that.

By Mr. Moss:

Q. Really, was not your vote occasioned by the very decided intimation that you had of the mayor's desire that Mr. Devery should be made the chief, and the fear that if you did not act so you might lose the position? A. No, sir; in no possible way.

Q. Then you are not in the same position as Mr. Hess upon that question? A. I don't know what position he is in; I know what position I am in.

Q. You heard what he testified? A. Yesterday; yes. I do not testify to the same thing.

Q. It is different in your case? A. Yes, sir.

Q. You say you will need more proof, corroborative proof before you vote to retire the officer. Let us see what proof you may have had. Do you not know that for many months past the whole community has been ringing with the charge that New York city is wide open? A. I don't know that the community has been ringing with that charge, I know some newspapers have been. They do not represent the community. On the other hand I know the community, so far as my contact with it has been concerned, has been pretty well satisfied with the way things have been going.

Q. Well, what do you mean by the way things have been going—the wide openness? A. I don't know what you call wide open.

Q. Well, you ought to know the meaning of the term. What I mean, as you must understand, that law breaking places are in operation in such a way that people can easily get into them and engage in unlawful practices. Now, is that what you suppose the people of New York are satisfied with, a condition like that? A. I should think they would not be. That has not been the fact so far as my observation is concerned.

Q. Did you read the charges of Franklin Matthews published in the Harper's Weekly of October 22, 1898? A. My recollection is I did.

Q. In which he spoke of poolrooms, a fortune in the poolrooms, excise law violation, the tenderloin's professional bondsman, Mr. Nelson, dives, more depraved than before, prize fighting monopolies, gambling and so on? A. Yes, I remember reading it. I

could write a more horrible story than that if I set out to, but it would be all fiction.

Q. It would be all fiction? A. Yes.

Q. Do you mean to say this was fiction? A. I think a good deal of it was.

Q. And you remember that those statements were denied by Mr. Devery and Mr. Croker, do you? A. No, I don't remember. I don't remember what Devery said or Croker.

Q. Didn't you call Mr. Devery to account at the time of this publication? A. Yes, I have called him to account several times—not in the sense though of censuring particularly.

Q. Not in the sense of censuring? A. No. Don't catch at that thing; let me get through; but to call his attention to allegations and charges made that certain conditions of things existed and to exert him to every action to see whether anything of the sort did exist and to punish it if it did.

Q. Now, you say you had doubts of the truth of the accusation. You called upon Mr. Devery to report on it, didn't you—to make a report to the board—your board called on him? A. Well, I can't recollect; the records will show that.

Q. Don't you know whether you did or not? Did you let it go without calling him to account? A. No, didn't let it go, and don't let anything go if I get hold of it.

Q. Of course not? A. Particularly a good thing.

Q. If it was a good thing. Have you no recollection, Mr. Commissioner, as one of the heads of the force, whether upon that accusation you called upon Mr. Devery for a statement? A. I think I did.

Q. Didn't he say that the article was not true? A. No, I didn't give him a chance, if I recollect, to say it was not true. I told him to proceed to find out whether it was true.

Q. Well, did he find out anything? A. From time to time he reported.

Q. That is, he was to find out whether he was inefficient; was that the idea? A. Oh, no; no, it was not to find out.

Q. And he found out from time to time what? A. What the condition of things was in the city generally.

Q. Gave you a lot of paper reports? A. No; he gave me a lot of verbal reports; I would not take paper reports.

Q. What verbal reports did he give? You are beginning to recollect something. A. I can't repeat the exact language.

Q. What was the substance of it, Mr. Abell? A. That such things existed or did not exist.

Q. Was it that they did exist, or that they did not exist—which was it Mr. Abell? Is it a matter of so little consequence that you don't remember? A. Oh, no, no; not at all. Everything is of consequence in the police department.

Q. Well, what was it? A. Some things as I recollect, he said he would attend to; some things he said did not exist, that it was simply rumor.

Q. Well, the effect of it was, in your mind, that at least the charge of Mr. Matthews was overdrawn, wasn't it? A. That was the effect then and now.

Q. Yes? But don't you remember that Mr. Croker came out with an interview in which he also said that the city was in splendid condition and made an assault upon the moral character of one of the gentlemen whom he held to be responsible for the newspaper? Don't you remember that he talked about the character of one of the Harper Brothers? You are a public man and follow these things. Don't you remember it? A. Well, now, really, I don't remember reading anything of that sort from Mr. Croker. He may have said it.

Q. Yes? Well, do you remember that after the published denials of Mr. Devery and Mr. Croker under date of October 27, 1898, Mr. Matthews addressed the chief of police and printed his letter reaffirming his statements and offering to take the chief of police to the places which he mentioned and show them? A. I don't remember; but if he had offered that to me I would have accepted his offer.

Q. Yes: Of course. Well, I have here a printed copy of that letter in the Evening Sun, October 27, 1898. I simply refer to it on the minutes. I will read just this portion of it. "It is evident that some one has told the police to arrest street walkers in large numbers (laudable enough in its way unless it becomes a matter of persecution), and thus drive them into houses where the old-time system of tribute can be exacted. I don't know who did it. Perhaps you can find out. I will go even further in my offer to you than I have thus far. I will give you a list of gambling houses which has come to me in a newspaper way with a pass into one of them. You can find out in a very few minutes whether they are gambling houses or not. I have no desire to investigate the matter. I will furnish you with a list of pool-rooms given to me by so humble a person as a newspaper office

boy who has a personal knowledge of their existence. I will give you a list of disorderly houses in the tenderloin, furnished to me by one of the most trustworthy reporters in this town. And then, to prove beyond shadow of a doubt that the town is wide open as it never was before, I will present to you the printed invitation issued by the Stitch McCarthy Association, and sent to an evening newspaper of this city, for the fifth annual ball of that society, to be given on Sunday evening, November 6, two days before election, in which certain articles of clothing which are never mentioned in polite conversation are to be offered as prizes to the women who attend. Only the limitations required by decency in public print prevent me from giving the exact language of the invitation. I venture to remark however, that no such circular was ever printed and sent to a reputable newspaper in this town before. I think that covers all that is necessary for me to say in reply to your letter. My object in writing the article for Harper's Weekly was simply to show up Tammany's alliance with vice and crime, and not to make a mere exposure. I repeat that the town is wide open, and you know it, Mr. Croker must know it, and if Mayor VanWyck doesn't know it, it is because he chooses to be in ignorance of it. If you will select the day and hour I will take a drive with you and Mr. York or Mr. Croker, or any other friend you may select, and I will point out to you every place I visited in preparing the article I wrote for Harper's Weekly. I will show you the place where the pool-room I wrote exists. I will show you the policy joint into which I went. I will show you scores and scores of cafés on the east side which are nothing more than disorderly houses, and your good sense as a policeman will tell you that they could not exist without the knowledge of the police officials in that part of the city. I will show you dive after dive where the ragtime dance is put on, and I will introduce you to men who have seen it danced in these places. I will reveal to you everything regarding the sources from which my article was prepared, keeping back nothing except the names of those who gave me confidential information. I will show you wide open New York as it exists to-day, unless you close it up or some one else closes it up before we start out. All I ask of you is to name the day and the hour. If the places are closed when we reach them, I will introduce you to men who will bear me out in saying that they have been open and were open at the time I wrote the article." You don't remember anything about that? A. I remember something about it.



Q. Much more in that article than I have read? A. I remember something, now you have reminded me of it.

Q. Why didn't you state—— A. Hold on 'till I get through; and I recollect I took action upon it.

Q. What? A. To inquire as to the existence of certain places that were located. I ascertained that some of them were in existence during your administration.

Q. That is all right. Why didn't you close them, then? A. I tried; I have been trying to.

Q. Are you setting your administration by mine, or are you trying to improve on it? A. Not by any means.

Q. Why didn't you close them? A. That is what I have been trying to do, and trying to know if we can find them—can get the evidence.

Q. We will help you to get it if it is necessary? A. I will do it if you will give me the evidence.

Q. We have the commissioners of police with a force of 7,000 men, at an expenditure of millions of dollars a year, detectives, trained officers, asking the counsel of this committee, with most limited resources of men and means to fight the places for him. I think that ought to go in black type in print. A. You take that stump speech out of the belly of your question and I will get it right.

Q. Out of the what? A. Out of the belly of your question.

Q. What do you mean by that? A. I mean by that, if you will simmer down your question so that I will get at it, I will try to get at it.

Q. What has the belly to do with the question—what do you mean? A. Stump speech brought in between the beginning and end of your question.

Q. Did you mean to use that expression, or did you not? A. I will put it "observations." You know that is a familiar expression—the stump speech. Now I want to say as to some of those things that you have mentioned in that communication. I called the attention of the chief, as I recollect, to some published statements, and particularly to the Stitch McCarty Association. As I recollect that was to be a dance or ball or something on Sunday night, and they were to give as a prize certain ladies underclothes and I told the chief that the thing must not occur and I think it did not occur; that is my recollection.

Q. I think you are right, Mr. Commissioner. A. Yes. It was a political organization and it was not Tammany Hall, either.

Q. Well, what was it? A. My information was that he was posing as either an independent Republican or something of that sort.

Q. I shall always give you a chance and any witness a chance to bring out anything lurking within your minds. I will never stop anything of that kind. Now, have you finished your remarks on that subject? A. Yes.

Q. Well, did you know Stitch McCarty? A. Personally?

Q. Yes. A. No; and I don't want to.

Q. Did you look him up? A. Yes.

Q. Did you find out exactly what the organization was that he was posing to represent? A. Found out enough to satisfy me.

Q. What did you do with Stitch McCarty and his organization—anything? A. Well, we were prepared to punish him for any violation of law, or anybody else, if we caught him at it.

Q. Now, if you took sufficient notice of Mr. Matthews' invitation to stop Stitch McCarty's ball, why didn't you accept his invitation to go around and find out if the other things were true? A. He addressed his invitation to somebody else. If he had come to me personally he would have got it accepted very quickly.

Q. Ah, then it was simply the etiquette—the manner in which the invitation was presented? A. No etiquette about it.

Q. Why didn't you go to him and demand—say "Mr. Franklin Matthews, you have said things about the department which I represent, and while you have not addressed me a general invitation, I demand that you take us around and show whether you have given the facts." Why didn't you do that? A. Mr. Matthews, as an intelligent citizen, ought to know the police board was the head of the police department, and if he has got any complaints to make we will receive it and act upon it.

Q. Did you think Mr. Matthews was venting some private grievance and your only function was to help a man out when he made a complaint? A. No.

Q. If those things were true, they were not personal to Mr. Franklin Matthews, were they? A. So many of such things had been published, many of which I knew were not true.

Q. There have been many of those things published, have there? A. That were not true.

Q. If you found out that the Stitch McCarty ball matter was true, why didn't you look to see if some of the other things were true? A. I did not even take it from that article. I got one of the cards; somebody gave me one of his cards and I went for him.

Q. That was because you got a card and not because you saw it in the article? A. Not because of the article.

Q. You threw the article out and declined to take any action on it, because Mr. Matthews had not been punctilious enough to address a private invitation to the board of police? A. I didn't think anything about the punctiliousness of it.

Q. Did you think anything about it at all? A. Oh, yes.

Q. Did you care anything about? A. Yes; I cared.

Q. Do you remember that shortly after that the ministers on the East Side, both Hebrew and Christian, united in making affidavits about the intolerable conditions that prevailed in their neighborhood? A. Yes; I remember it.

Q. What did you do about those affidavits? A. We proceeded.

Q. What did you do? A. Well, we put a man in there to clean them out.

Q. Exactly; you put Mr. Chapman in there to clean them out, didn't you? A. Yes.

Q. There was something to clean out, then? A. I went there before to satisfy myself that there was something, and that is why he went there.

Q. Did you find something? A. Yes, sir; I did.

Q. You did? A. You will find something in New York, everywhere.

Q. Then you yourself were an eye witness of things that were necessary to clear out? A. Yes, sir; and we cleared them out.

Q. Then was not Franklin Matthews correct when he made the allegations in that particular? A. If he had brought his complaint the same way that the others did, I would have taken more personal notice of it.

Q. But, sir, as a public officer, with the rights of the people in your command, why didn't you go and find out and protect the little children that were playing all through those streets? A. I did; precisely what I did.

Q. Why didn't you use the testimony of Mr. Matthews to prosecute the people that had been violating the law and send them to prison? A. Why didn't you, as counsel of the Society to Prevent Crime?

Q. I am not talking about me; I am talking about you? A. I did.

Q. The cuttle-fish when he is attacked, gives out his cloud of ink and scuttles away in the depths of darkness? A. I am not scuttling away; I went there.

Q. You want to call attention to somebody else, but stick to your own case. A. I went there.

Q. You went there and found the things to be true? A. Yes.

Q. So true that you transferred from that district the captain under whom those conditions had grown up and put a new captain there to clean it out, didn't you? A. Yes, sir.

Q. And that was done somewhat upon your own evidence as a witness to those things, wasn't it? A. Why, yes, I suppose it was.

Q. Now, Mr. Commissioner, why didn't you put that captain on trial under whom that intolerable and filthy condition had grown up? A. What captain?

Q. What captain was it, the captain prior to Chapman—who was it? A. Why, the captain the Lord had called him, he was dead.

Q. That was Captain O'Keefe? A. Yes.

Q. Was it the Lord that had called Captain O'Keefe, or was it somebody that had killed Captain O'Keefe, did you ever investigate that? A. Had killed Captain O'Keefe.

Q. Did you ever hear that before? A. No.

Q. You never heard that mentioned before? A. Why, I understood Captain O'Keefe died from accident.

Q. Didn't you know that there was a mystery about it at that time, even? A. Why, there is a mystery over everything that happens in New York.

Q. When a man dies by accident, and there is a mystery around it, what does it indicate to a police officer? A. Indicates a good deal.

Q. What? A. It indicates we have got to look out to see if we can dispel the mystery.

Q. Did you ever dispel the mystery? A. About O'Keefe?

Q. Yes. A. Never understood there was any mystery about it.

Q. Don't you know that at this time that neighborhood is full of the rumor that has never been properly investigated by the police department, that Captain O'Keefe was killed—killed because he had knowledge of a guilty plot to remove another man from this life, and it was not safe to let him live with that knowledge? A. No, and I do not think it exists.

Q. Why don't you think it? A. Because there never has been any evidence in any tangible way.

Q. No, but you do not expect any evidence in a tangible way in that or the Molineux or other similar cases? A. No, nor intangible way.



Q. Who succeeded Captain O'Keefe? A. As captain?

Q. As commander? A. Well, to be certain about that I would have to go to the record; but my recollection is that a sergeant was placed there temporarily.

Q. Sergeant Zimmerman? A. Zimmerman, I think.

Q. And Zimmerman was in command of that precinct all through the election, wasn't he? A. Yes. What portion of the election do you mean?

Q. Preliminary to the election and after the election? A. A very few days.

Q. A few days before the election? A. Yes, very few days.

Q. Was he not in command of that district while the papers were ringing with stories of election outrages and abuses in that district? A. Well—

Q. Assaults upon public speakers, persecution of peddlers, of small store keepers,—do you remember anything of that kind? A. What? About his being in command or about the stories?

Q. Well, about both? A. Yes, I remember.

Q. Answer. A. And it didn't exist to any considerable extent either.

Q. You went down there to look at it? A. I did, night and day.

Q. I heard you did? A. I didn't mean that district should be stolen away from my party if I could help it in a legitimate way.

Q. Did you or your board cause any complaint to be made against Zimmerman, the acting captain of that precinct, after O'Keefe's death, on account of the immoral condition of the neighborhood which you found? A. Complaint to be made against him?

Q. Against him, yes, sir? A. Well, now, so far as that condition of things is concerned—

Q. That is fair to answer yes or no. Did you have any complaint made against him? A. Formally?

Q. At that time? A. Yes.

Q. What? A. Well, I was not satisfied with Zimmerman's administration.

Q. What did you do? A. I wanted a captain put there that would take the thing in hand very vigorously.

Q. Exactly; and you were not satisfied with Zimmerman's administration of that foul precinct? A. Yes.

Q. And you wanted another captain put there? A. Yes.

Q. Why didn't you put Zimmerman on trial for having given an unsatisfactory administration in that district which is so teeming with lives, multitudes of people and children there? A. Well, the man was not liable for omission or neglect of duty to that extent; it seemed to be a question of capacity, whether he was a man who was able to cope with that condition of things. It did not militate against his moral makeup or his intention or effort to do what was right.

Q. Mr. Commissioner, do you believe it to be a safe policy for the head of the force to follow, that when a precinct is filled with crime that you can make up some kind of judgment in your own mind that a man is not competent to handle the crime, and therefore not try him, but remove him to some other field? Do you think that is a safe policy? A. It might be in some cases; in some other cases it would not.

Q. Well, at any rate, you put Captain Chapman in there- A. Yes.

Q. And according to all accounts he went around with an axe? A. Well, I would have gone with a club.

Q. You would? It was bad enough for that, was it? A. Yes; anything.

Q. Under the circumstances, the circumstances being unusually bad, you would go without warrant of law, because of the moral necessity with club and axe and cut down and chop out those places; is that so? A. Well, if he committed any violation of law he was responsible for it.

Q. I know; but you said you would have gone with a club; you approved of his going with an axe. Was that because of the very evil conditions that were there that they required heroic treatment? A. In certain cases the law gives an officer the right to go with an axe if he cannot get in otherwise.

Q. Well, was that the condition there that it justified the use of the axe and club? A. We left him to judge of the conditions; we told him what results we wanted and we got the results. If we had not got them we would have sent him somewhere else or out of the force.

Q. Yes? A. Yes; I think I told him myself I would make a complaint against him if he did not stop that vice or eradicate it and other commissioners did the same thing.

Q. Well, do you know whether he did eradicate that vice there? A. Well, I think he did it as much as it is possible for mortal man to do it. He did not eradicate original sin.

Q. No, of course not; but were not these people gathered into houses and were not those houses permitted to exist upon the payment of money; did you ever look into that question? A. No, sir, not that I know of. I heard and tried to find out, but I never could ascertain.

Q. You heard the rumor? A. Oh, there are all sorts of rumors.

Q. There was enough for you to look into it and ascertain it? A. And I did look into it—looked into it, yes.

Q. Didn't Mr. Cooney succeed Zimmerman before Chapman went in there? A. Yes.

Q. How long was Cooney in the precinct? A. Sergeant Cooney, he was only there temporarily.

Q. How long? A. I cannot state how long; not very long.

Q. You never put him on trial, did you? A. On trial for what?

Q. On account of his neglect of duty in that precinct? A. No; he did not neglect. A man don't neglect his duty when he tries to do the best he can, but don't succeed in doing all that somebody else might do. We sent him to another precinct.

Q. Why did you allow that precinct to get into such a condition as required the heroic measures that were adopted by Captain Chapman with your sanction? A. Well, it existed, as I ascertained before I came into office and before the new charter went into effect. We were dealing with an old chronic one; it existed while you were there too.

Q. Which had grown to an enormous extent so that such articles as this of Franklin Matthews and such affidavits as those of the ministers that I have read had to be published. Isn't it a fact that your board was driven by public clamor to go in and cleanse out that district? A. No, it is not a fact.

Q. And do you remember that after public accusations had been made on that score, another body of ministers representing churches of all denominations throughout the east side issued a statement in the press saying that the charges had never fully or adequately described the evils there? Do you remember that? A. I remember something about that.

Q. It was called a Round Robin? A. Yes.

Q. It was published generally in the newspapers? A. Yes.

Q. So that, Mr. Commissioner, before your department undertook to cleanse that moral plague spot, there had to be an uprising in the press, an uprising of the ministers in that neighborhood? A. No, there hadn't any such thing.

Q. No? A. I addressed myself to that subject immediately, and worked upon it all the time.

Q. Were there not published at that time allegations of infamous places on the Bowery, with descriptions almost unreadable, because of the nameless vices that flourished there? A. Yes, and they are published to-day I suppose.

Q. And are published to-day; and those places are there to-day practically without police interference, ain't they? A. No, not without police interference.

Q. What interference is there? Are you coping with the difficulty? A. Trying to.

Q. Are you aware that those places on the Bowery are largely patronized by girls, seventeen, fifteen, and sometimes even less in age than that? Do you know that some of the girls who have attempted suicide at McGurk's place were under sixteen years of age? A. Yes; and the place is out of existence.

Q. Is it? Is it? Is it, Mr. Abell? A. Practically.

Q. Practically is it? A. In that character it is.

Q. What were they doing last night there—do you know? A. I was not there last night.

Q. Last week? A. I don't know, maybe you can tell if you were there.

Q. Do you know what was going on in Volk's Garden last week? A. No, sir, I cannot be present at all.

Q. Do you know about the system of boxes in those places, and what is done with them? A. I have heard of such things.

Q. And how the boys and girls may enter them? A. Yes.

Q. What are you doing to protect the boys and girls of those neighbors against those places? What are you doing? A. We are trying to keep them down and keep the boys and girls out if we can; and I have been trying to close up a lot of those places and against giving any licenses to them.

Q. And your board has been engaged very recently in giving concert licenses to some of those very places, hasn't it? A. Yes, and the places that existed that you gave licenses to.

Q. O, dear. We didn't give any licenses; that is where you are mistaken; it was not in our power. A. Gave them license to run.

Q. Are you acting in harmony with the rest of the board on concert licenses? A. Well, what do you mean by acting in harmony?

Q. Have you dissented in your vote from the granting of licenses to those concert halls where you were saying you are



trying to keep the boys and girls out of? A. Well, I voted against some of them.

Q. Against whose? Against which ones? A. Well, I cannot enumerate them all.

Q. Well, I can find them for you if it is necessary? A. I can find them; I can find them by going to the records.

Q. Can you name a single one of those Bowery or Eighth avenue concert dives where you have voted against the giving of the licenses? A. Yes.

Q. Which? A. Well, I cannot give you the precise number now. I can tell you from record at least where the places are located, but there are some places down near Chatham Square that I am opposed to licensing.

Q. Did they carry them over your head in the board? A. Well, I am unable to say now. I can look at the records that occurred before I was called hastily out of the city. I haven't had time to look it up.

Q. Did you vote for a license for Mr. Hertz at a place about 100 Bowery, somewhere in that neighborhood? A. What is the name of the place? Do you know what he calls his place? I go more by the names of the places in my mind. There was five or six of them I was opposed to licensing.

Q. You were opposed to some of them but notwithstanding your opposition, a number of these concert places have been re-licensed, haven't they? A. I cannot say, because I have not looked at the record since my return.

Q. Do you remember that several of them were held up in the board, and adjourned over, and then finally licensed? A. I remember that several of them were held up, and they were held up at the last meeting I had with the board before I went away.

Q. And they were held up because the inspector of police had reported that he was not satisfied with the way they had been conducted, and they then had been referred back to the chief, and after the chief reported, then they were licensed. Do you remember that? A. No, sir.

Q. Do you remember that? A. No; I don't remember any such thing. I remember some of them were held up that were reported to be—as I recollect the report was favorable.

Q. Some of those places have been given probationary licenses haven't they—licenses for a certain time? A. Not probationary, no, sir. The law does not recognize anything of that sort.

Q. Licenses until August? A. When they apply, the law provides that they may have a license for less than one year, and they pay so much for it.

Q. Yes, but they applied for longer than August, didn't they? A. Very few, I guess.

Q. Let me read you this news item? A. I don't go by the news item; I go by the record.

Q. "The police board yesterday granted some more probationary three months licenses to concert halls, and if they behave themselves from now on to August and the police so report, they are to be allowed to run for the whole of the year. That ought to be easy in the dull season." Now, you have been granting licenses for three months, haven't you? A. Yes; we have been granting licenses for three months on the application of the party for a three months license, but there is no condition or otherwise with reference to it. That is newspaper; that is not police department. You are reading from newspapers. The newspapers are not running the police department.

Q. Well, who is running the police department? A. Well, we are trying to.

Q. Are you doing it? A. And ask your cooperation.

Q. Are you doing it? You are the people that are there? A. Yes; we are running it.

Q. And, Mr. Abell, are you willing to stand there responsible, so far as one of four can be responsible, for the police department, as it is now running? A. I am responsible for my acts, and I think that I can safely be responsible for the acts of my associates.

Q. You are perfectly satisfied with it, are you? A. Well, so far as our acts are concerned, we are trying to accomplish the ends—results; it takes time to do it.

Q. To be sure; but are you satisfied with the department as it is now, as a crime suppressing institution and a law enforcing institution? Are you satisfied with it? A. I am satisfied we are trying to—

Q. I know that; but are you satisfied with the institution? A. I am satisfied with that, I say.

Q. I am asking you this question. This committee is to consider things as they are, and if the laws need changing, if the departments need remodelling, it is the business of this committee to find that out? A. Yes.

Q. Now, as one of the heads of this department, I ask you are you satisfied with the department now as a law enforcing and crime repressing agency? A. Well, now, to answer that question I say that I am satisfied with our efforts and our intention to do all we can—our effort to do it, and hope to accomplish the end.

Q. But you say you want our help, Mr. Abell. You said so—you want our help? A. Oh, I am not pleading for your help.

Q. Well, you asked for it? A. Yes, and as a good citizen you ought to render it.

Q. We ask you what is there in your department that is ineffective or inefficient that can be cured, or can be helped by legislation, which is the purpose of this committee? A. I don't know that there is any lack in the department of good and efficient men. I don't know that there is. But if you know there is any crime or vice existing and we don't know it, we will, so far as I myself am concerned, and my colleagues, will be very grateful to you for any cooperation.

Q. But don't you know Mr. Commissioner that private citizens have an objection to having to spend their time and money in discovering and prosecuting crime when they are heavily taxed to supply the money to provide the men, the means and the munitions of war for a trained and specialized department to do that work—don't you know that? A. They don't have to do it; they don't have to spend any money to do it, and mighty little time to do it. Only give us the information. There are cases—have been numerous cases where private individuals have been cognizant of crime, have been themselves mixed up in the crime, and yet would not go with us to the courts and make charges.

Q. Mr. Abell, right on that very point, and I think you have all got to admit, you have been treated with absolute fairness, let us take this poolroom issue. Do you not remember, as I asked Mr. Hess this morning, do you not remember that fully a month ago the attention of the chief of police was publicly called to poolrooms in this city? A. Yes.

Q. And from the columns of the New York Times there were giving to him publicly the names and places, the exact information by which they could go and get the evidence? A. Yes, I remember it.

Q. What more could you ask? A. Ask? Why, I have seen it stated in the newspapers half a dozen times that Aguinaldo had surrendered and yet he has not.

Q. Then you did not believe what was in the *Times*? A. No, not all of it, I did not.

Q. You did not believe all of it? A. No.

Q. And because you did not believe all of that article, therefore you did not proceed? A. Yes. How do you know I did not?

Q. I am asking you so; is that it? A. Yes, I have been proceeding all the time.

Q. How have you been proceeding? A. I also saw in the newspapers this statement that in consequence of the investigating committee coming down to New York, that all the poolrooms had suddenly closed; and I was glad, if it were a fact, that if any poolrooms existed that they closed by reason of the investigating committee, or any other reason.

Q. Well, did you believe that was true when you read it in the papers? A. No.

Q. You did not? A. No.

Q. And haven't you been practically convinced that that was not true? A. By what?

Q. By the testimony of men who have been in the places, some of them business men who have lost their money, and others sent there to get evidence, who brought the evidence out? A. I will not take the uncorroborated testimony of any confessed gambler of the existence of crime.

Q. Not even for the purpose of investigation? A. Oh, yes, we will investigate.

Q. Are you calling yourself court and jury now? A. No, sir; I am calling myself an investigator now.

Q. How long have you been an investigator? A. I have been in the department nearly eleven months and I have been investigating ever since.

Q. You have been investigating poolrooms all that time? A. Yes, everything.

Q. Did you know there were 200 poolrooms in the borough of Manhattan and the Bronx? A. No, I do not know; do you?

Q. Did you know it? A. Two hundred?

Q. Yes. A. I didn't know that there were 200.

Q. Did you know there were 100? A. There might be; there might not be any.

Q. Do you mean to say solemnly here as a witness, that so far as you know there may not be any? A. There may not be, but I have a strong suspicion that there are.

Q. You have? A. Yes, sir.



Q. Based upon what? A. Based upon the fact that men will gamble upon race horses, as well as on money, cards or women.

Q. And is that the only basis for your suspicion? A. Well, it is enough to go on.

Q. Testimony makes no impression on you, then? A. Oh, yes, it does, if it is credible.

Q. Do you mean to say the testimony of Mr. Cohen, Mr. Witness, Mr. Wood and Mr. Harris was not credible? You heard it?

A. I would have to corroborate it before I believe the testimony.

Q. You do not think four witnesses corroborated it, do you? A. Well, it depends upon who the witnesses are.

Mr. Moss—I suppose you object to the witnesses Wood and Harris because they were employed men, do you?

The Witness—Not entirely.

Q. Do you discredit them on that account? A. To some extent I do.

Q. Would discredit testimony of police officers because they are paid men to go out and get evidence? A. That would depend.

Q. Would you discredit it in the same way that you would these gentlemen? A. They are paid in a different way.

Q. How? Oh, I understand. A. Yes, sir, paid in a different way. Their tenure of office depends upon the performance of their duties. The other fellows get all they can for the time being.

Q. Does their tenure of office depend upon their performance of duty? A. It ought to, and I think it does with most of them.

Q. Does the tenure of the office of the captains in whose precincts these poolrooms have been located depend upon the performance of their duties? A. Yes, sir, it ought to.

Q. But does it? A. Well, I think it does, to a very large extent.

Q. Before an enlightened community and among intelligent men, do you mean to say then that you have in your mind nothing more than an impression that there may be some poolrooms in New York? A. Well, I have been trying to remove that impression by ascertaining positively what, if any, poolrooms exist, on complaint, and on my own motion, and have investigated.

Q. And you have nothing but a mere suspicion now? A. Oh—

Q. There may be some and there may be none? A. I didn't say a mere suspicion. But I don't think the Raines law club is a poolroom.

Mr. Moss—No, of course not. Who said it was?

The Witness—I said that it was not, in my judgment.

Q. Has any poolroom ever been closed up, through any act of yours, to your knowledge? A. There is one I thought was a poolroom, and I tried to close it up, and it appeared it was not a poolroom, from all the evidence we could get. We could not close that up. I would have liked to have closed it up.

Q. Did you hear the testimony of Officer McConnell, the other day, who said that he had succeeded in closing so powerful a poolroom as Frank Farrell's, by simply going there in a way that meant business, and saying, "I have been sent to close you up, and you must close"? Did you read that? A. Well, I heard Mr. Farrell—

Q. (Interrupting.) Mr. McConnell? A. (Continuing.) Mr. McConnell's testimony here, yes, sir.

Q. You did not call that credible testimony, did you? A. Well, I thought he was pretty near straight.

Mr. Moss—I am glad to have you say that. Pretty near straight?

The Witness—Yes, sir.

Q. Is it not a fact, Mr. Commissioner, and have you not learned, that when the police really want to close an illegal resort, they do not have to resort to the courts and the criminal machinery, but it is sufficient for them to go there in dead earnest and say so? A. Um!

Q. Where is the criminal place that would stay open for an hour if it knows that the police really mean business? Have you ever found one? A. Yes, sir.

Q. Where? A. Found one.

Q. What? A. Found one that I recollect. There may have been others. Found that one on South street.

Q. What was that? The Allen's?

The Witness—The Allen's.

Mr. Moss—Yes.

A. Why, we have tried to bust him half a dozen times.

Q. You never succeeded? A. No, and you didn't either. The courts sustained him.

Q. Is that the man against whom—— A. (Interrupting.) That is the notorious The Allen.

Q. (Continued.) This year five or six indictments have been dismissed on the motion of the district attorney? A. I don't know what the district attorney has done. He is not my advisor; but I was going to remark about this poolroom—you asked me for an example.

Q. That is an notable example, is it not?

The Witness—What?

Mr. Moss—The Allen's.

A. It is the other one I wanted to speak to you about.

Q. Which one was that? A. There was one on South street I was satisfied was a poolroom, and a legitimate—not a legitimate, but a regular, well equipped poolroom.

Q. Illegitimate? A. No poolroom is legitimate; and we went for it, but before we got there the birds in the cage had flown. We got the place. We didn't get the men who operated it.

Q. What did you do with the place? A. We kept guard on it. It was opened, I believe, for something else—a residence or tenement, or something of that sort.

Q. Then you did close that, did you not? A. Well, I think we did.

Q. And you did not arrest anybody? A. We can't arrest a man when he clears out and gets out of reach.

Q. Of course not. That is what I say. When the police make up their minds to really go for a place of that kind they can make it untenable, can they not? Yes, sir; and that is what we are trying to do.

Q. Why do you not do it? A. We are doing it all the time when we can get at them.

Mr. Moss—I don't want to be tedious, but right here I think it is important not to read this article of April 7th, that was shown to the chief, but to read out of it the numbers of the places that were called to his attention: 118 Nassau street; 207 Greenwich street.

The Witness—I could save you the trouble. I read that list.

Mr. Moss—I am reading it for the record.

100 Vesey street; 62 Vesey street; 20 Dey street; 193 Washington street; Fulton street, southwest corner of Dutch street; 12 Centre street; 2 New Chambers street; 12 Chambers street; 112 Centre street; 80 Sixth avenue; 286 Bowery; Bowery, southwest corner of Bond; 9 St. Mark's place; 128 West Fourteenth street; 58 East Thirteenth street; 128 West Fourteenth street; Sixth avenue, southwest corner of Thirty-fourth street; 111 West Twenty-third street; 116 University place; 168 West One Hundred and Twenty-fifth street; 113 East Thirteenth street; 100 East One Hundred and Twenty-fifth street; 2305 Third avenue; 1108 Third avenue; 374 Third avenue; 206 East Thirty-fourth street; 154 East Forty-second street; 719 Third avenue; Sixth avenue, northeast corner of Forty-second street, over Wakeley's saloon; 699 Sixth avenue; 685 Sixth avenue; 147 West Forty-second street; 415 Eighth avenue; 584 Seventh avenue. And gambling rooms: 148 East Fourteenth street; 116 Third avenue; 508 Sixth avenue; St. Mark's place, northeast corner of Third avenue; 15 Ann street.

The Witness—Will you give me that list?

Mr. Moss—Give it to you? I am not asking you a question.

The Witness—What is the date? Let me ask you what the date of the paper is.

Mr. Moss—April 7th. Your honor will notice the correspondence between the numbers which were given to the chief a month ago, and the places against which evidence was adduced here yesterday.

The Witness—I will act on this.

Mr. Moss—This is a month old.

The Witness—It don't make any difference.

Mr. Moss—Perhaps you will not find those poolrooms there now, after the testimony that was given yesterday. What will you do then?

The Witness—Then we will see where they have gone.

Mr. Moss—I will give you a tip.

The Witness—That is what I want.

Mr. Moss—The orders are going out that all of these poolrooms that have been touched by the testimony shall remove a short distance.

The Witness—Well, I wish you would give me the other tip and tell me where they remove to.



Mr. Moss—That is for you to find out, with your detectives.

The Witness—I will do it if I can.

The Chairman—I understand this list was given to the chief quite a while ago.

Mr. Moss—When he was on the stand first. Weeks ago.

The Chairman—I wanted the commissioner to understand that part of it.

The Witness—I will find out.

Mr. Moss—The date—April 7th was the date.

The Witness—I will find out what the chief has been doing about it.

Q. Do you think you will find out? A. I am going to try.

Q. Now, as a commissioner who sits in judgment on police officers, when you find out by reading the testimony before this committee of about a month ago, that the chief's attention was called to the newspaper article giving those numbers, and when you find out that he knew nothing about it and has done nothing, when you read over again the testimony yesterday given, showing how easy it was to go to those places and get the evidence, the very same places, what then will you do to the chief to vindicate your authority and to hold him to his responsibility? Can you tell? A. I can tell when I find out what he has been doing and what he has not been doing. I can't tell now, because I don't know.

Q. You realize now that the matter has reached up to you, do you not? A. Yes, sir; this ain't the first time that I have taken notice of all these things you know—some of these things.

Q. The responsibility now is yours? A. Yes, sir.

Q. And your board has the power to act? A. Yes, sir.

Q. And whatever you may think about a man's moral character, holding a position of that kind, if you have evidence that he is inefficient, incapable to perform such duties as that, you know you have power, do you not? A. Yes, sir; and we will exercise it, too.

Q. You will? Well, I believe there is nothing like fixing responsibility. A. Well, I am willing to take it or get out.

Q. One of the first things you did after becoming a commissioner of police was to appoint a private secretary, was it not? A. No.

Q. You did it pretty soon, did you not? A. A month. The salary of a private secretary is \$2,500. I appointed my son. That

is not a position under the civil service examination. It is a confidential position, entirely. I tried—took a month to see if I could find anybody else to suit me, and I could not. I did not want anybody to give things away.

Q. Is there anything to give away? A. Oh, in confidential relations—the term itself implies that there are things that are secret; things that are confidential that should not be given out to everybody. You know that.

Q. Yes. I want to ask you once more, are you satisfied with the police department in its present condition? A. Man is never satisfied.

Q. Then you are not satisfied? A. Improvement ought to go on all the time. I hold court, trying policemen on a stated day. There are a great many cases that the individual commissioner disposes of by himself. The great bulk of the cases are entirely disposed of by the trial commissioner.

Q. All cases which, in the judgment of the trial commissioner, can be punished by a fine of less than five days he disposes of on the spot, does he not? A. No. He disposes of all cases that involve fines not exceeding thirty days.

Q. Oh, then that is a much wider latitude than we allowed ourselves years ago? A. Yes. Only in cases of removal. Where removal——

Mr. Moss—I am glad to know that. Under the previous administration every case against a police officer was referred to the full board, when it involved a complaint by a citizen, a complaint of conduct unbecoming an officer, or a disciplinary charge that seemed to require more than the five days' fine. In ordinary cases of violations of the rules, which, in the judgment of the trial commissioner, could be punished by a fine of not over five days, he passed upon himself. But now you say——

The Witness—Thirty days' fine.

Mr. Moss (continued) That anything else less than removal——

The Witness—Anything less than removal.

Mr. Moss (continued) Can be passed upon, and is passed upon by the individual commissioner?

The Witness—Not in all cases.

Q. In what cases is that not so? A. Well, it is hard to tell what cases.

Q. What kind of cases? A. Well, citizens' cases, particularly. In any infractions, technical violations of rules, where a complaint has been made by citizens—the trial commissioner—I am speaking more particularly for myself; altogether for myself; but that is the practice. The trial commissioner, where he has any doubt as to the case on the testimony, brings it into the board.

Q. Thirty days is the limit of your power to fine? A. To fine, yes, sir.

Q. The highest fine that can be made? A. Yes, sir.

Q. Have you not observed a disposition on the part of the policemen to have their cases adjourned or managed so as not to come before some commissioners, and to get before other commissioners? A. I do not—I cannot say that I have.

Q. How long does it take you to dispose of a calendar of sixty or seventy cases, on an average? A. That depends upon the nature of the cases. Sometimes I sit two hours, and sometimes I will sit three hours. I don't think I ever had a calendar that I could dispose of in an hour. I could hardly do it with fairness and justice to the men. Not if there are any number of cases. There is, of course, the testimony of the roundsman who accuses the officer. Then there must be the testimony of the officer, to meet the accusation; and very often there are supporting witnesses on both sides. We have a stenographer who takes down every word of the testimony carefully and it is really a judicial proceeding with considerable gravity and dignity attached to it; it ought to be.

Q. And in order to hear the roundsman's testimony accusing and his supporting witness, if he has one, and the defense of the officer, and his supporting witness, you would require considerable more than a minute to a case, on an average, would you not? A. Well, yes. I should say—I would. Somebody else might act more quickly than I.

Q. Do you think it is possible for such cases to be tried fairly, fifty or sixty cases, inside of an hour, to hear both sides?

The Witness—Fifty or sixty cases, I should want more than that.

Q. Especially when the trial commissioner is the sole judge in most of those cases? A. Well, some minds can grasp things more quickly than others. Some men can do business quicker than others.

Q. Well, but is not that the fact that trials that are had in that way are accountable largely for the failure in the discipline

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